

2002

SESSION LAWS

OF THE

STATE OF WASHINGTON

REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE
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GARY REID
Acting Code Reviser

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WASHINGTON SESSION LAWS GENERAL INFORMATION

I. EDITIONS AVAILABLE.

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

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

(b) *Where and how obtained—price.* Both the temporary and permanent session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552. The temporary pamphlet edition costs \$21.60 per set (\$20.00 plus \$1.60 for state and local sales tax at 8.0%). The permanent edition costs \$54.00 per set (\$25.00 per volume plus \$4.00 for state and local sales tax at 8.0%). All orders must be accompanied by payment.

2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

- (i) underlined matter is new matter.
- (ii) ~~deleted matter is ((lined out and bracketed between double parentheses))~~.

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 2002 regular session to be June 13, 2002 (midnight June 12th).

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

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

6. INDEX AND TABLES

A cumulative index and tables of all 2002 laws may be found at the back of the final pamphlet edition and the permanent hardbound edition.



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CHAPTER 268

[Substitute Senate Bill 6364]

MOBILE/MANUFACTURED HOME ALTERATION AND REPAIR

AN ACT Relating to the recommendations of the joint legislative task force on mobile/manufactured home alteration and repair; amending RCW 43.22.434, 43.22.434, 43.22.340, 43.22.432, 64.06.005, and 43.22.335; adding new sections to chapter 43.22 RCW; creating a new section; 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. The purpose of this act is to implement the recommendations of the joint legislative task force created by chapter 335, Laws of 2001. The legislature recognizes the need to improve communications among mobile/manufactured homeowners, regulatory agencies, and other interested parties, to streamline the complex regulatory environment and inflexible enforcement system, and to promote problem-solving at an early stage. To assist in achieving these goals, the legislature:

(1) Encourages the relevant agencies to conduct a pilot project that tests an interagency coordinated system for processing permits for alterations or repairs of mobile and manufactured homes; and

(2) Recognizes the task force's work in reviewing agency rules related to alteration permit requirements and supports the task force's recommendations to the agency regarding those rules. The legislature finds that assisting consumers to understand when an alteration of a mobile or manufactured home is subject to a permit, and when it is not, will improve compliance with the agency rules and further the code's safety goals.

Sec. 2. RCW 43.22.434 and 2001 c 335 s 5 are each amended to read as follows:

(1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the

national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.17 RCW.

(4)(a) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490.

(b) Subject to (a) of this subsection, and for the purposes of implementing the pilot project approved by the mobile/manufactured home alteration task force, the department may adopt by rule a temporary statewide fee schedule that decreases fees for mobile/manufactured home alteration permits and increases fees for factory-built housing and commercial structures plan review and inspection services. Under the temporary fee schedule, the department may waive mobile/manufactured home alteration permit fees for indigent permit applicants. The department may increase fees for factory-built housing and commercial structures plan review and inspection services in excess of the fiscal growth factor under chapter 43.135 RCW, if the increases are necessary to fund the cost of administering RCW 43.22.335 through 43.22.490. In no instance shall any fee that applies to the factory-built housing and commercial plan review and inspection services be increased in excess of forty percent.

(5) This section expires April 1, 2004.

Sec. 3. RCW 43.22.434 and 2001 c 335 s 5 are each amended to read as follows:

(1) The director or the director's authorized representative may conduct such inspections, investigations, and audits as may be necessary to adopt or enforce manufactured and mobile home, commercial coach, conversion vending units, medical units, recreational vehicle, park trailer, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured and mobile homes,

commercial coaches, conversion vending units, medical units, recreational vehicles, park trailers, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale;

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the national manufactured home construction and safety standards act of 1974. Each inspection shall be commenced and completed with reasonable promptness; and

(c) As requested by an owner of a conversion vending unit or medical unit, inspect an alteration.

(3) For purposes of determining compliance with this chapter's permitting requirements for alterations of mobile and manufactured homes, the department may audit the records of a contractor as defined in chapter 18.27 RCW or RCW 18.106.020(1) or an electrical contractor as defined in RCW 19.28.006 when the department has reason to believe that a violation of the permitting requirements has occurred. The department shall adopt rules implementing the auditing procedures. Information obtained from a contractor through an audit authorized by this subsection is confidential and not open to public inspection under chapter 42.17 RCW.

(4)(a) The department shall set a schedule of fees by rule which will cover the costs incurred by the department in the administration of RCW 43.22.335 through 43.22.490.

(b) Effective April 1, 2004, the department must adopt a new fee schedule that is the same as the fee schedule that was in effect immediately prior to the temporary fee schedule authorized in section 2(4)(b), chapter . . . , Laws of 2002 (section 2 of this act). However, the new fee schedule must be adjusted by the fiscal growth factors not applied during the period that the temporary fee schedule was in effect.

NEW SECTION. Sec. 4. A new section is added to chapter 43.22 RCW to read as follows:

(1)(a) In addition to or in lieu of any other penalty applicable under this chapter, and except as provided in (b) of this subsection, the department may assess a civil penalty of not more than one thousand dollars against a contractor, firm, partnership, or corporation, that fails to obtain a permit before altering a mobile or manufactured home as required under this chapter or rules adopted under this chapter. Each day on which a violation occurs constitutes a separate violation. However, the cumulative penalty for the same occurrence may not exceed five thousand dollars.

(b) The department must adopt a schedule of civil penalties giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation and the history of previous violations. Penalties for subsequent violations, not constituting the same occurrence, committed within two years of a prior violation by the same party or entity, or by an individual who was a principal

or officer of the same entity, must be double the amount of the penalty for the prior violation or one thousand dollars, whichever is greater.

(2)(a) The department may issue a notice of correction before issuing a civil penalty assessment. The notice must include:

- (i) A description of the violation;
- (ii) A statement of what is required to correct the violation;
- (iii) The date by which the department requires correction to be achieved; and
- (iv) Notice of the individual or department office that must be contacted to obtain a permit or other compliance information.

(b) A notice of correction is not a formal enforcement action, is not subject to appeal, and is a public record.

(c) If the department issues a notice of correction, it shall not issue a civil penalty for the violation identified in the notice of correction unless the responsible person fails to comply with the notice.

(3)(a) The department must issue written notices of civil penalties imposed under this section, with the reasons for the penalty, by certified mail to the last known address of the party named in the notice.

(b) If a party desires to contest a notice of civil penalty issued under this section, the party must file a notice of appeal with the department within twenty days of the department's mailing of the notice of civil penalty. An administrative law judge of the office of administrative hearings will hear and determine the appeal. Appeal proceedings must be conducted pursuant to chapter 34.05 RCW. An appeal of the administrative law judge's determination or order shall be to the superior court. The superior court's decision is subject only to discretionary review under the rules of appellate procedure.

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.22 RCW to read as follows:

(1) With respect to mobile and manufactured homes that are installed in accordance with the standards adopted under RCW 43.22.440:

(a) The department shall adopt rules that:

(i) Specify exemptions from a requirement for a permit to alter a mobile or manufactured home;

(ii) Authorize the granting of variances from the rules adopted under this section for alterations that use materials, designs, or methods of construction different from those required under the rules adopted under this chapter; and

(iii) Require the seller of a mobile or manufactured home to deliver to the buyer prior to the sale: (A) A completed property transfer disclosure statement in accordance with chapter 64.06 RCW, unless the seller is exempt or the buyer waives his or her rights under chapter 64.06 RCW; and (B) the variance, if any, granted under the rules adopted under this section.

(b) The department may adopt a rule that allows parties to enter into a conditional sale of an altered mobile or manufactured home. However, a conditional sales agreement may be executed only if, prior to execution, the parties

have complied with the department's requirements related to permit approval and a variance granted under the rules, if any, and with property transfer disclosure statement requirements.

(2) This chapter does not prohibit the sale of an altered mobile or manufactured home installed in accordance with the standards adopted under RCW 43.22.440. If, after an inspection requested by any party to a sale, including a party financing the sale, the department determines that an alteration may constitute a hazard to life, safety, or health, the department shall so notify the parties in writing within thirty days of completing the inspection and may notify the local official responsible for enforcing the uniform fire code adopted under chapter 19.27 RCW or local health officer, as applicable, within the relevant jurisdiction.

Sec. 6. RCW 43.22.340 and 1999 c 22 s 2 are each amended to read as follows:

(1) The director shall adopt specific rules for conversion vending units and medical units. The rules for conversion vending units and medical units shall be established to protect the occupants from fire; to address other life safety issues; and to ensure that the design and construction are capable of supporting any concentrated load of five hundred pounds or more.

(2) The director of labor and industries shall adopt rules governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches, recreational vehicles, and/or park trailers: **PROVIDED**, That the director shall not prescribe or enforce rules governing the body and frame design of recreational vehicles and park trailers until after the American National Standards Institute shall have published standards and specifications upon this subject. The rules shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches, A119.2 for recreational vehicles, and A119.5 for park trailers.

(3) Except as provided in section 5 of this act, it shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches, conversion vending units, medical units, recreational vehicles, and/or park trailers manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970, body and frame design or construction, unless such equipment, design, or construction meets the requirements of the rules provided for in this section.

Sec. 7. RCW 43.22.432 and 2001 c 335 s 4 are each amended to read as follows:

(1) The department may adopt all standards and regulations adopted by the secretary under the national manufactured home construction and safety standards act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW.

(2) The department shall adopt rules with respect to manufactured homes ~~((installed in accordance with the standards adopted under RCW 43.22.440 that:~~

~~— (a) Specify exemptions from a requirement for a permit to alter a manufactured home;~~

~~— (b) Authorize the granting of variances from the rules adopted under this section for alterations that use materials, designs, or methods of construction different from those required under the rules adopted under this section; and~~

~~— (c) Require the seller of a manufactured home to deliver to the buyer prior to the sale a completed property transfer disclosure statement that includes all the criteria specified in RCW 64.06.020 and a copy of a variance, if any, granted under the rules adopted under this section. Nothing in this chapter shall be construed to prohibit the sale of a manufactured home that was altered unless the alteration makes the home unsafe so that its use may constitute a hazard to life, safety, or health)) that require the prior written approval of the department before changes or alterations may be made to a manufactured home that differ from the construction standards provided for in this section.~~

(3) Except as provided in section 5 of this act, it is unlawful for any person to lease, sell, or offer for sale, within this state, a manufactured home unless the home meets the requirements of the rules provided for in this section.

Sec. 8. RCW 64.06.005 and 1994 c 200 s 1 are each amended to read as follows:

This chapter applies only to residential real property. For purposes of this chapter, residential real property means:

(1) Real property consisting of, or improved by, one to four dwelling units;

(2) A residential condominium as defined in RCW 64.34.020(9), unless the sale is subject to the public offering statement requirement in the Washington condominium act, chapter 64.34 RCW; ~~((or))~~

(3) A residential timeshare, as defined in RCW 64.36.010(11), unless subject to written disclosure under the Washington timeshare act, chapter 64.36 RCW; or

(4) A mobile or manufactured home, as defined in RCW 43.22.335 or 46.04.302, that is personal property.

Sec. 9. RCW 43.22.335 and 2001 c 335 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.22.340 through ~~((43.22.420))~~ 43.22.434, 43.22.442, and 43.22.495.

(1) "Conversion vendor units" means a motor vehicle or recreational vehicle that has been converted or built for the purpose of being used for commercial sales at temporary locations. The units must be less than eight feet six inches wide in the set-up position and the inside working area must be less than forty feet in length.

(2) "Indigent" means a person receiving an annual income, after taxes, of one hundred twenty-five percent or less of the current federally established poverty level.

~~(3)~~ "Manufactured home" means a single-family dwelling required to be built in accordance with regulations adopted under the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.).

~~((3))~~ (4) "Medical unit" means a self-propelled unit used to provide medical examinations, treatments, and medical and dental services or procedures, not including emergency response vehicles.

~~((4))~~ (5) "Mobile home" means a factory-built dwelling built before June 15, 1976, to standards other than the national manufactured housing construction and safety standards act of 1974 (42 U.S.C. 5401 et seq.), and acceptable under applicable state codes in effect at the time of construction or introduction of the home into this state.

~~((5))~~ (6) "Park trailer" means a park trailer as defined in the American national standards institute A119.5 standard for park trailers.

~~((6))~~ (7) "Recreational vehicle" means a vehicular-type unit primarily designed for recreational camping or travel use that has its own motive power or is mounted on or towed by another vehicle. The units include travel trailers, fifth-wheel trailers, folding camping trailers, truck campers, and motor homes.

NEW SECTION. Sec. 10. (1) Sections 1, 2, and 4 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

(2) Section 3 of this act takes effect April 1, 2004.

Passed the Senate March 12, 2002.

Passed the House March 5, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 269

[Senate Bill 6379]

STATE PATROL RETIREMENT SYSTEM

AN ACT Relating to transferring service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and who became commissioned officers in the Washington state patrol after July 1, 2000, and prior to June 30, 2001; and adding a new section to chapter 41.40 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.40 RCW to read as follows:

(1) Active members of the Washington state patrol retirement system who have previously established service credit in the public employees' retirement system plan 2 while employed in the state patrol as a commercial vehicle enforcement officer, and who became a commissioned officer after July 1, 2000, and prior to June 30, 2001, have the following options:

(a) Remain a member of the public employees' retirement system; or

(b) Transfer service credit earned under the retirement system as a commercial vehicle enforcement officer to the Washington state patrol retirement system by making an irrevocable choice filed in writing with the department of retirement systems within one year of the department's announcement of the ability to make such a transfer.

(2)(a) Any commissioned officer choosing to transfer under this section shall have transferred from the retirement system to the Washington state patrol retirement system:

(i) All the employee's applicable accumulated contributions plus interest, and an equal amount of employer contributions attributed to such employee; and

(ii) All applicable months of service as a commercial vehicle enforcement officer credited to the employee under this chapter as though that service was rendered as a member of the Washington state patrol retirement system.

(b) For the applicable period of service, the employee shall pay: (i) The difference between the contributions the employee paid to the retirement system, and the contributions which would have been paid by the employee had the employee been a member of the Washington state patrol retirement system, plus interest as determined by the director. This payment shall be made no later than December 31, 2010, or the date of retirement, whichever comes first;

(ii) The difference between the employer contributions paid to the public employees' retirement system, and the employer contributions which would have been payable to the Washington state patrol retirement system; and

(iii) An amount sufficient to ensure that the funding status of the Washington state patrol retirement system will not change due to this transfer.

(c) If the payment required by this subsection is not paid in full by the deadline, the transferred service credit shall not be used to determine eligibility for benefits nor to calculate benefits under the Washington state patrol retirement system. In such case, the additional employee and employer contributions transferred under this subsection, and any payments made under this subsection, shall be refunded to the employee, and the employer shall be entitled to a credit for the payments made under (a) of this subsection.

(d) An individual who transfers service credit and contributions under this subsection is permanently excluded from the public employees' retirement system for all service as a commercial vehicle enforcement officer.

Passed the Senate February 15, 2002.

Passed the House March 8, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 270

[Senate Bill 6416]

UTILITY RATES—REDUCTION—LOW-INCOME CITIZENS

AN ACT Relating to allowing public utility districts to define the eligible group of low-income citizens to whom they may provide services at reduced rates; and amending RCW 74.38.070.

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

Sec. 1. RCW 74.38.070 and 1998 c 300 s 8 are each amended to read as follows:

~~((1))~~ Notwithstanding any other provision of law, any county, city, town, public utility district or other municipal corporation, or quasi municipal corporation providing utility services may provide such services at reduced rates for low-income senior citizens or other low-income citizens: **PROVIDED**, That, for the purposes of this section, "low-income senior citizen" or "other low-income citizen" shall be defined by appropriate ordinance or resolution adopted by the governing body of the county, city, town, public utility district or other 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 other low-income citizens in one part of a service area shall be uniformly extended to low-income senior citizens or other low-income 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) "other low-income citizen" means a person whose household income does not exceed the amount specified in RCW 70.164.020(4);)

Passed the Senate February 11, 2002.

Passed the House March 8, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 271

[Senate Bill 6417]

SUPERIOR COURT—RECORDING WILLS

AN ACT Relating to the filing of wills in superior court; and amending RCW 11.20.050.

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

Sec. 1. RCW 11.20.050 and 1967 c 168 s 17 are each amended to read as follows:

All wills (~~shall be recorded by the clerk after filing, but~~) filed with the clerk of the superior court must be noted in the record required to be kept under RCW 36.23.030(7). They may be withdrawn from the record on the order of the court.

- Passed the Senate February 12, 2002.
- Passed the House March 6, 2002.
- Approved by the Governor March 29, 2002.
- Filed in Office of Secretary of State March 29, 2002.

CHAPTER 272

[Substitute Senate Bill 6461]

COMMERCIAL MOTOR VEHICLE OPERATORS—DRUG TESTS

AN ACT Relating to positive drug or alcohol test results of commercial motor vehicle operators; amending RCW 46.25.090, 46.25.100, and 46.25.120; adding new sections to chapter 46.25 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.25 RCW to read as follows:

All medical review officers or breath alcohol technicians hired by or under contract to a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 or to a consortium the carrier belongs to, as defined in 49 C.F.R. 382.17, shall report the finding of a commercial driver’s confirmed positive drug or alcohol test to the department of licensing on a form provided by the department. Motor carriers, employers, or consortiums shall make it a written condition of their contract or agreement with a medical review officer or breath alcohol technician, regardless of the state where the medical review officer or breath alcohol technician is located, that the medical review officer or breath alcohol technician is required to report all Washington state licensed drivers who have a confirmed positive drug or alcohol test to the department of licensing within three business days of the confirmed test. Failure to obtain this contractual condition or agreement with the medical review officer or breath alcohol technician by the motor carrier, employer, or consortium will result in an administrative fine as provided in RCW 81.04.405. Substances obtained for testing may not be used for any purpose other than drug or alcohol testing under 49 C.F.R. 382.

NEW SECTION. **Sec. 2.** A new section is added to chapter 46.25 RCW to read as follows:

(1) When the department of licensing receives a report from a medical review officer or breath alcohol technician that the holder of a commercial driver’s license has a confirmed positive drug or alcohol test, either as part of the testing program

required by 49 C.F.R. 382 or as part of a preemployment drug test, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090(7) subject to a hearing as provided in this section. The department shall notify the person in writing of the disqualification by first class mail. The notice must explain the procedure for the person to request a hearing.

(2) A person disqualified from driving a commercial motor vehicle for having a confirmed positive drug or alcohol test may request a hearing to challenge the disqualification within twenty days from the date notice is given. If the request for a hearing is mailed, it must be postmarked within twenty days after the department has given notice of the disqualification.

(3) The hearing must be conducted in the county of the person's residence, except that the department may conduct all or part of the hearing by telephone or other electronic means.

(4) For the purposes of this section, the hearing must be limited to the following issues: (a) Whether the driver is the person who took the drug or alcohol test; (b) whether the motor carrier, employer, or consortium has a program that meets the federal requirements under 49 C.F.R. 382; and (c) whether the medical review officer or breath alcohol technician making the report accurately followed the protocols for testing established to certify the results. Evidence may be presented to demonstrate that the test results are a false positive. For the purpose of a hearing under this section, a copy of the positive test result with a declaration by the tester or medical review officer or breath alcohol technician stating the accuracy of the laboratory protocols followed to arrive at the test result is prima facie evidence of a confirmed positive drug or alcohol test result. After the hearing, the department shall order the disqualification of the person either be rescinded or sustained.

(5) If the person does not request a hearing within the twenty-day time limit, or if the person fails to appear at a hearing, the person has waived the right to a hearing and the department shall sustain the disqualification.

(6) A decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation and the department receives no further report of a confirmed positive drug or alcohol test during the pendency of the hearing and appeal. If the disqualification is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of his or her residence to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(7) The department of licensing may adopt rules specifying further requirements for requesting a hearing under this section.

(8) The department of licensing is not civilly liable for damage resulting from disqualifying a driver based on a confirmed positive drug or alcohol test result as

required by this section or for damage resulting from release of this information that occurs in the normal course of business.

Sec. 3. RCW 46.25.090 and 1996 c 30 s 3 are each amended to read as follows:

(1) A person is disqualified from driving a commercial motor vehicle for a period of not less than one year if a report has been received by the department pursuant to RCW 46.25.120, or if the person has been convicted of a first violation, within this or any other jurisdiction, of:

(a) Driving a commercial motor vehicle under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle.

If any of the violations set forth in this subsection occurred while transporting a hazardous material required to be identified by a placard, the person is disqualified for a period of not less than three years.

(2) A person is disqualified for life if it has been determined that the person has committed or has been convicted of two or more violations of any of the offenses specified in subsection (1) of this section, or any combination of those offenses, arising from two or more separate incidents. Only offenses committed after October 1, 1989, may be considered in applying this subsection.

(3) The department may adopt rules, in accordance with federal regulations, establishing guidelines, including conditions, under which a disqualification for life under subsection (2) of this section may be reduced to a period of not less than ten years.

(4) A person is disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance, as defined by chapter 69.50 RCW, or possession with intent to manufacture, distribute, or dispense a controlled substance, as defined by chapter 69.50 RCW.

(5) A person is disqualified from driving a commercial motor vehicle for a period of not less than sixty days if convicted of or found to have committed two serious traffic violations, or one hundred twenty days if convicted of or found to have committed three serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three-year period.

(6) A person is disqualified from driving a commercial motor vehicle for a period of:

(a) Not less than ninety days nor more than one year if convicted of or found to have committed a first violation of an out-of-service order while driving a commercial vehicle;

(b) Not less than one year nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed two violations of out-of-service orders while driving a commercial vehicle in separate incidents;

(c) Not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed three or more violations of out-of-service orders while driving commercial vehicles in separate incidents;

(d) Not less than one hundred eighty days nor more than two years if the person is convicted of or is found to have committed a first violation of an out-of-service order while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act (46 U.S.C. Sec. 1801-1813), or while operating motor vehicles designed to transport sixteen or more passengers, including the driver. A person is disqualified for a period of not less than three years nor more than five years if, during a ten-year period, the person is convicted of or is found to have committed subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded under the Hazardous Materials Transportation Act, or while operating motor vehicles designed to transport sixteen or more passengers, including the driver.

(7) A person is disqualified from driving a commercial motor vehicle if a report has been received by the department under section 2 of this act that the person has received a confirmed positive drug or alcohol test either as part of the testing program required by 49 C.F.R. 382 or 49 C.F.R. 40 or as part of a preemployment drug test. A disqualification under this subsection remains in effect until the person undergoes a drug and alcohol assessment by an agency certified by the department of social and health services and, if the person is classified as an alcoholic, drug addict, alcohol abuser, or drug abuser, until the person presents evidence of satisfactory participation in or successful completion of a drug or alcohol treatment program that has been certified by the department of social and health services under chapter 70.96A RCW and until the person has met the requirements of RCW 46.25.100. The agency making a drug and alcohol assessment under this section shall forward a diagnostic evaluation and treatment recommendation to the department of licensing for use in determining the person's eligibility for driving a commercial motor vehicle. Persons who are disqualified under this subsection more than twice in a five-year period are disqualified for life.

(8) Within ten days after suspending, revoking, or canceling a commercial driver's license, the department shall update its records to reflect that action. After suspending, revoking, or canceling a nonresident commercial driver's privileges, the department shall notify the licensing authority of the state that issued the commercial driver's license.

Sec. 4. RCW 46.25.100 and 1989 c 178 s 12 are each amended to read as follows:

When a person has been disqualified from operating a commercial motor vehicle, the person is not entitled to have the commercial driver's license restored until after the expiration of the appropriate disqualification period required under RCW 46.25.090 or until the department has received a drug and alcohol assessment and evidence is presented of satisfactory participation in or completion of any required drug or alcohol treatment program for ending the disqualification under RCW 46.25.090(7). After expiration of the appropriate period and upon payment of a requalification fee of twenty dollars, or one hundred fifty dollars if the person has been disqualified under RCW 46.25.090(7), the person may apply for a new, duplicate, or renewal commercial driver's license as provided by law. If the person has been disqualified for a period of one year or more, the person shall demonstrate that he or she meets the commercial driver's license qualification standards specified in RCW 46.25.060.

Sec. 5. RCW 46.25.120 and 1998 c 41 s 6 are each amended to read as follows:

(1) A person who drives a commercial motor vehicle within this state is deemed to have given consent, subject to RCW 46.61.506, to take a test or tests of that person's blood or breath for the purpose of determining that person's alcohol concentration or the presence of other drugs.

(2) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has probable cause to believe that driver was driving a commercial motor vehicle while having alcohol in his or her system.

(3) The law enforcement officer requesting the test under subsection (1) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person being disqualified from operating a commercial motor vehicle under RCW 46.25.090.

(4) If the person refuses testing, or submits to a test that discloses an alcohol concentration of 0.04 or more, the law enforcement officer shall submit a sworn report to the department certifying that the test was requested pursuant to subsection (1) of this section and that the person refused to submit to testing, or submitted to a test that disclosed an alcohol concentration of 0.04 or more.

(5) Upon receipt of the sworn report of a law enforcement officer under subsection (4) of this section, the department shall disqualify the driver from driving a commercial motor vehicle under RCW 46.25.090, subject to the hearing provisions of RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a commercial motor vehicle within this state while having alcohol in the person's system, whether the person refused to submit to the test or tests upon request of the officer after

having been informed that the refusal would result in the disqualification of the person from driving a commercial motor vehicle, and, if the test was administered, whether the results indicated an alcohol concentration of 0.04 percent or more. The department shall order that the disqualification of the person either be rescinded or sustained. Any decision by the department disqualifying a person from driving a commercial motor vehicle is stayed and does not take effect while a formal hearing is pending under this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction that is a moving violation during the pendency of the hearing and appeal. If the disqualification of the person is sustained after the hearing, the person who is disqualified may file a petition in the superior court of the county of arrest to review the final order of disqualification by the department in the manner provided in RCW 46.20.334.

(6) If a motor carrier or employer who is required to have a testing program under 49 C.F.R. 382 knows that a commercial driver in his or her employ has refused to submit to testing under this section and has not been disqualified from driving a commercial motor vehicle, the employer may notify law enforcement or his or her medical review officer or breath alcohol technician that the driver has refused to submit to the required testing.

(7) The hearing provisions of this section do not apply to those persons disqualified from driving a commercial motor vehicle under RCW 46.25.090(7).

Passed the Senate March 11, 2002.

Passed the House March 8, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 273

[Substitute Senate Bill 6481]

RENTAL CAR INSURANCE

AN ACT Relating to regulating insurance for rental vehicles; adding a new chapter to Title 48 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. SHORT TITLE. This chapter may be known and cited as the rental car insurance limited agent license act.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Endorsee" means an unlicensed employee or agent of a rental car agent who meets the requirements of this chapter.

(2) "Person" means an individual or a business entity.

(3) "Rental agreement" means any written master, corporate, group, or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company.

(4) "Rental car" means any motor vehicle that is intended to be rented or leased for a period of thirty consecutive days or less by a driver who is not required to possess a commercial driver's license to operate the motor vehicle and the motor vehicle is either of the following:

(a) A private passenger motor vehicle, including a passenger van, recreational vehicle, minivan, or sports utility vehicle; or

(b) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than twenty-six thousand pounds.

(5) "Rental car agent" means any rental car company that is licensed to offer, sell, or solicit rental car insurance under this chapter.

(6) "Rental car company" means any person in the business of renting rental cars to the public, including a franchisee.

(7) "Rental car insurance" means insurance offered, sold, or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, group, or individual agreements that: (a) Is nontransferable; (b) applies only to the rental car that is the subject of the rental agreement; and (c) is limited to the following kinds of insurance:

(i) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

(ii) Liability insurance, including uninsured or underinsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation of the rental car during the rental period;

(iii) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of, or damage to, personal effects in the rental car during the rental period; and

(iv) Roadside assistance and emergency sickness protection insurance.

(8) "Renter" means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

NEW SECTION. Sec. 3. GENERAL RULES. (1) A rental car company, or officer, director, employee, or agent of a rental car company, may not offer, sell, or solicit the purchase of rental car insurance unless that person is licensed under chapter 48.17 RCW or is in compliance with this chapter.

(2) The commissioner may issue a license to a rental car company that is in compliance with this chapter authorizing the rental car company to act as a rental car agent under this chapter, in connection with and incidental to rental agreements, on behalf of any insurer authorized to write rental car insurance in this state.

NEW SECTION. Sec. 4. LICENSING RENTAL CAR COMPANIES AS RENTAL CAR AGENTS. A rental car company may apply to be licensed as a rental car agent under, and if in compliance with, this chapter by filing the following documents with the commissioner:

(1) A written application for licensure, signed by the applicant or by an officer of the applicant, in the form prescribed by the commissioner that includes a listing of all locations at which the rental car company intends to offer, sell, or solicit rental car insurance; and

(2)(a) A certificate by the insurer that is to be named in the rental car agent license, stating that: (i) The insurer has satisfied itself that the named applicant is trustworthy and competent to act as its rental car agent, limited to this purpose; (ii) the insurer has reviewed the endorsee training and education program required by section 5(4) of this act and believes that it satisfies the statutory requirements; and (iii) the insurer will appoint the applicant to act as its rental car agent to offer, sell, or solicit rental car insurance, if the license for which the applicant is applying is issued by the commissioner.

(b) The certification shall be subscribed by an authorized representative of the insurer on a form prescribed by the commissioner.

NEW SECTION. Sec. 5. RENTAL CAR AGENT ENDORSEES. (1) An employee or agent of a rental car agent may be an endorsee authorized to offer, sell, or solicit rental car insurance under the authority of the rental car agent license, if all of the following conditions have been satisfied:

(a) The employee or agent is eighteen years of age or older;

(b) The employee or agent is a trustworthy person and has not committed any act set forth in RCW 48.17.530;

(c) The employee or agent has completed a training and education program;

(d) The rental car company, at the time it submits its rental car agent license application, also submits a list of the names of all endorsees to its rental car agent license on forms prescribed by the commissioner. The list shall be updated and submitted to the commissioner quarterly on a calendar year basis. Each list shall be retained by the rental car company for a period of three years from submission; and

(e) The rental car company or its agent submits to the commissioner with its initial rental car agent license application, and annually thereafter, a certification subscribed by an officer of the rental car company on a form prescribed by the commissioner, stating all of the following:

(i) No person other than an endorsee offers, sells, or solicits rental car insurance on its behalf or while working as an employee or agent of the rental car agent; and

(ii) All endorsees have completed the training and education program under subsection (4) of this section.

(2) A rental car agent's endorsee may only act on behalf of the rental car agent in the offer, sale, or solicitation of a rental car insurance. A rental car agent is

responsible for, and must supervise, all actions of its endorsees related to the offering, sale, or solicitation of rental car insurance. The conduct of an endorsee acting within the scope of his or her employment or agency is the same as the conduct of the rental car agent for purposes of this chapter.

(3) The manager at each location of a rental car agent, or the direct supervisor of the rental car agent's endorsees at each location, must be an endorsee of that rental car agent and is responsible for the supervision of each additional endorsee at that location. Each rental car agent shall identify the endorsee who is the manager or direct supervisor at each location in the endorsee list that it submits under subsection (1)(d) of this section.

(4) Each rental car agent shall provide a training and education program for each endorsee prior to allowing an endorsee to offer, sell, or solicit rental car insurance. Details of the program must be submitted to the commissioner, along with the license application, for approval prior to use, and resubmitted for approval of any changes prior to use. This training program shall meet the following minimum standards:

(a) Each endorsee shall receive instruction about the kinds of insurance authorized under this chapter that may be offered for sale to prospective renters; and

(b) Each endorsee shall receive training about the requirements and limitations imposed on car rental agents and endorsees under this chapter. The training must include specific instruction that the endorsee is prohibited by law from making any statement or engaging in any conduct express or implied, that would lead a consumer to believe that the:

(i) Purchase of rental car insurance is required in order for the renter to rent a motor vehicle;

(ii) Renter does not have insurance policies in place that already provide the coverage being offered by the rental car company under this chapter; or

(iii) Endorsee is qualified to evaluate the adequacy of the renter's existing insurance coverages.

(5) The training and education program submitted to the commissioner is approved if no action is taken within thirty days of its submission.

(6) An endorsee's authorization to offer, sell, or solicit rental car insurance expires when the endorsee's employment with the rental car company is terminated.

(7) The rental car agent shall retain for a period of one year from the date of each transaction records which enable it to identify the name of the endorsee involved in each rental transaction when a renter purchases rental car insurance.

NEW SECTION. Sec. 6. RENTAL CAR AGENT RESTRICTIONS. Insurance may not be offered, sold, or solicited under this section, unless:

(1) The rental period of the rental car agreement is thirty consecutive days or less;

(2) At every location where rental agreements are executed, the rental car agent or endorsee provides brochures or other written materials to each renter who purchases rental car insurance that clearly, conspicuously, and in plain language:

(a) Summarize, clearly and correctly, the material terms, exclusions, limitations, and conditions of coverage offered to renters, including the identity of the insurer;

(b) Describe the process for filing a claim in the event the renter elects to purchase coverage, including a toll-free telephone number to report a claim;

(c) Provide the rental car agent's name, address, telephone number, and license number, as well as the commissioner's consumer hotline number;

(d) Inform the consumer that the rental car insurance offered, sold, or solicited by the rental car agent may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(e) Inform the consumer that the purchase by the renter of the rental car insurance is not required in order to rent a rental car from the rental car agent; and

(f) Inform the consumer that the rental car agent and the rental car agent's endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages;

(3) The purchaser of rental car insurance acknowledges in writing the receipt of the brochures or written materials required by subsection (2) of this section;

(4) Evidence of the rental car insurance coverage is stated on the face of the rental agreement;

(5) All costs for the rental car insurance are separately itemized in the rental agreement;

(6) When the rental car insurance is not the primary source of coverage, the consumer is informed in writing in the form required by subsection (2) of this section that their personal insurance will serve as the primary source of coverage; and

(7) For transactions conducted by electronic means, the rental car agent must comply with the requirements of this section, and the renter must acknowledge in writing or by electronic signature the receipt of the following disclosures:

(a) The insurance policies offered by the rental car agent may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(b) The purchase by the renter of rental car insurance is not required in order to rent a rental car from the rental car agent; and

(c) The rental car agent and the rental car agent's endorsees are not qualified to evaluate the adequacy of the renter's existing insurance coverages.

NEW SECTION. Sec. 7. RENTAL CAR AGENT PROHIBITIONS. A rental car agent may not:

(1) Offer, sell, or solicit the purchase of insurance except in conjunction with and incidental to rental car agreements;

(2) Advertise, represent, or otherwise portray itself or any of its employees or agents as licensed insurers, insurance agents, or insurance brokers;

(3) Pay any person, including a rental car agent endorsee, any compensation, fee, or commission that is dependent primarily on the placement of insurance under the license issued under this chapter;

(4) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe that the:

(a) Insurance policies offered by the rental car agent do not provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowners' insurance policy, or by another source of coverage;

(b) Purchase by the renter of rental car insurance is required in order to rent a rental car from the rental car agent; and

(c) Rental car agent or the rental car agent's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverages.

NEW SECTION. Sec. 8. ENFORCEMENT. (1) Every rental car agent licensed under this chapter shall promptly reply in writing to an inquiry of the commissioner relative to the business of car rental insurance.

(2)(a) In the event of a violation of this chapter by a rental car agent, the commissioner may revoke, suspend, or refuse to issue or renew any rental car agent's license that is issued or may be issued under this chapter for any cause specified in any other provision of this title, or for any of the following causes:

(i) For any cause that the issuance of this license could have been refused had it then existed and been known to the commissioner;

(ii) If the licensee or applicant willfully violates or knowingly participates in a violation of this title or any proper order or rule of the commissioner;

(iii) If the licensee or applicant has obtained or attempted to obtain a license through willful misrepresentation or fraud;

(iv) If the licensee or applicant has misappropriated or converted funds that belong to, or should be paid to, another person as a result of, or in connection with, a car rental or insurance transaction;

(v) If the licensee or applicant has, with intent to deceive, materially misrepresented the terms or effects of any insurance contract, or has engaged, or is about to engage, in any fraudulent transaction;

(vi) If the licensee or applicant or officer of the licensee or applicant has been convicted by final judgment of a felony;

(vii) If the licensee or applicant is shown to be, and is determined by the commissioner, incompetent or untrustworthy, or a source of injury and loss to the public; and

(viii) If the licensee has dealt with, or attempted to deal with, insurances, or has exercised powers relative to insurance outside the scope of the car rental agent license or other insurance licenses.

(b) If any natural person named under a firm or corporate car rental agent license, or application therefore, commits or has committed any act, or fails or has

failed to perform any duty, that constitutes grounds for the commissioner to revoke, suspend, or refuse to issue or renew the license or application for license, the commissioner may revoke, suspend, refuse to renew, or refuse to issue the license or application for a license of the corporation or firm.

(c) Any conduct of an applicant or licensee that constitutes grounds for disciplinary action under this title may be addressed under this section regardless of where the conduct took place.

(d) The holder of any license that has been revoked or suspended shall surrender the license to the commissioner at the commissioner's request.

(e) After notice and hearing the commissioner may impose other penalties, including suspending the transaction of insurance at specific rental locations where violations of this section have occurred and imposing fines on the manager or supervisor at each location responsible for the supervision and conduct of each endorsee, as the commissioner determines necessary or convenient to carry out the purpose of this chapter.

(3) The commissioner may suspend, revoke, or refuse to renew any car rental agent license by an order served by mail or personal service upon the licensee not less than fifteen days prior to its effective date. The order is subject to the right of the licensee to a hearing under chapter 48.04 RCW.

(4) The commissioner may temporarily suspend a license by an order served by mail or personal service upon the licensee not less than three days prior to its effective date. However, the order must contain a notice of revocation and include a finding that the public safety or welfare imperatively requires emergency action. These suspensions may continue only until proceedings for revocation are concluded. The commissioner may also temporarily suspend a license in cases when proceedings for revocation are pending if it is found that the public safety or welfare imperatively requires emergency action.

(5) Service by mail under this section means posting in the United States mail, addressed to the licensee at the most recent address shown in the commissioner's licensing records for the licensee. Service by mail is complete upon deposit in the United States mail.

(6) If any person sells insurance in connection with or incidental to rental car agreements, or holds himself or herself or a company out as a rental car agent, without satisfying the requirements of this chapter, the commissioner is authorized to issue a cease and desist order.

NEW SECTION. Sec. 9. TRUST ACCOUNT. A rental car agent is not required to treat moneys collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, if:

(1) The charges for rental car insurance coverage are itemized and ancillary to a rental transaction; and

(2) The insurer has consented in writing, signed by an officer of the insurer, that premiums need not be segregated from funds received by the rental car agent.

NEW SECTION. **Sec. 10. RULE MAKING.** The commissioner may adopt rules necessary to implement this chapter, including rules establishing licensing fees to defray the cost of administering this chapter.

NEW SECTION. **Sec. 11.** The commissioner shall report to the legislature by January 1, 2004, regarding the impact of this act on small businesses in the state of Washington.

NEW SECTION. **Sec. 12. CAPTIONS.** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 13.** Sections 1 through 10 and 12 of this act constitute a new chapter in Title 48 RCW.

Passed the Senate March 11, 2002.
Passed the House March 5, 2002.
Approved by the Governor March 29, 2002.
Filed in Office of Secretary of State March 29, 2002.

CHAPTER 274

[Senate Bill 6508]

PESTICIDE REGISTRATION

AN ACT Relating to registering pesticides; amending RCW 15.58.050, 15.58.070, 15.58.070, and 15.58.080; providing effective dates; and providing an expiration date.

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

Sec. 1. RCW 15.58.050 and 1989 c 380 s 3 are each amended to read as follows:

Every pesticide which is distributed within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered with the director subject to the provisions of this chapter. ~~((Such registration shall be renewed annually prior to January 1. PROVIDED, That))~~ However, registration is not required if: A pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under the provisions of this chapter; or ~~((if))~~ a written permit has been obtained from the director to distribute or use the specific pesticide for experimental purposes subject to restrictions and conditions set forth in the permit.

Sec. 2. RCW 15.58.070 and 1997 c 242 s 2 are each amended to read as follows:

~~(1) ((Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee for each pesticide registered by the department for such person. The registration fee shall be one hundred forty-five dollars for each pesticide registered.~~

~~—(2) The revenue generated by the registration))~~ Except under subsection (2) of this section:

(a) All registrations issued by the department to registrants whose names begin with the letters A through N expire December 31, 2004; and

(b) All registrations issued by the department to registrants whose names begin with the letters O through Z expire December 31, 2003.

(2) All registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31st of that year.

(3) An application for registration shall be accompanied by a fee of two hundred ninety dollars for each pesticide, except that:

(a) An application for registration submitted by a registrant whose name begins with the letters O through Z shall be accompanied by a fee of one hundred forty-five dollars for each pesticide; and

(b) A registrant who is applying to register an additional pesticide during the year the registrant's registration expires shall pay a fee of one hundred forty-five dollars for each additional pesticide.

(4) Fees shall be deposited in the agricultural local fund to support the activities of the pesticide program within the department.

~~((3) All pesticide registrations expire on December 31st of each year. A registrant may elect to register a pesticide for a two-year period by prepaying for a second year at the time of registration.~~

~~—(4))~~ (5) Any registration approved by the director and in effect on the ((31st day of December)) last day of the registration period, for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 3. RCW 15.58.070 and 1997 c 242 s 2 are each amended to read as follows:

~~(1) ((Any person desiring to register a pesticide with the department shall pay to the director an annual registration fee for each pesticide registered by the department for such person. The registration fee shall be one hundred forty-five dollars for each pesticide registered.~~

~~—(2) The revenue generated by the registration))~~ All registrations issued by the department expire December 31st of the following year except that registrations issued by the department to a registrant who is applying to register an additional pesticide during the second year of the registrant's registration period shall expire December 31st of that year.

(2) An application for registration shall be accompanied by a fee of two hundred ninety dollars for each pesticide, except that a registrant who is applying to register an additional pesticide during the year the registrant's registration expires shall pay a fee of one hundred forty-five dollars for each additional pesticide.

(3) Fees shall be deposited in the agricultural local fund to support the activities of the pesticide program within the department.

~~((3) All pesticide registrations expire on December 31st of each year. A registrant may elect to register a pesticide for a two-year period by prepaying for a second year at the time of registration.))~~

(4) Any registration approved by the director and in effect on the ~~((31st day of December))~~ last day of the registration period, for which a renewal application has been made and the proper fee paid, continues in full force and effect until the director notifies the applicant that the registration has been renewed, or otherwise denied in accord with the provision of RCW 15.58.110.

Sec. 4. RCW 15.58.080 and 1994 c 46 s 2 are each amended to read as follows:

If the renewal of a pesticide registration or special needs registration is not filed ~~((before January 1st of each year))~~ by the day the registration expires, an additional fee of ~~((twenty-five))~~ fifty dollars shall be assessed and added to the original fee. The additional fee shall be paid by the applicant before the registration renewal for that pesticide shall be issued unless the applicant furnishes an affidavit certifying that the applicant did not distribute the unregistered pesticide during the period of nonregistration. The payment of the additional fee is not a bar to any prosecution for doing business without proper registry.

NEW SECTION. **Sec. 5.** (1) Sections 1, 2, and 4 of this act take effect January 1, 2003.

(2) Section 2 of this act expires January 1, 2004.

NEW SECTION. **Sec. 6.** Section 3 of this act takes effect January 1, 2004.

Passed the Senate March 11, 2002.

Passed the House March 6, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 275

[Substitute Senate Bill 6515]

SCHOOL DISTRICTS' CAPITAL PROJECTS FUND—TECHNOLOGY

AN ACT Relating to clarifying the uses of the school district capital projects fund to include the costs of implementing technology facilities plans: amending RCW 28A.320.330: and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature recognizes and acknowledges that technology has become an integral part of the facilities and educational delivery systems in our schools. In order to prepare our state's students to participate fully in our state's economy, substantial capital investments must continue to be made in our schools' comprehensive technology systems, facilities, and projects. These investments are declared to be a major capital purpose.

Sec. 2. RCW 28A.320.330 and 1990 c 33 s 337 are each amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, and earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation, including the replacement of facilities and systems where periodical repairs are no longer economical. Major renovation and replacement shall include, but shall not be limited to, roofing, heating and ventilating systems, floor covering, and electrical systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and on-line applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Passed the Senate March 11, 2002.

Passed the House March 8, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 276

[Substitute Senate Bill 6658]

ENERGY CONSERVATION PROJECTS

AN ACT Relating to clarifying the types of energy conservation projects a public utility may assist its customers in financing; amending RCW 35.92.360 and 54.16.280; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that energy conservation can take many useful and cost-effective forms, and that the types of conservation projects available to utilities and customers evolve with time as technologies are developed and market conditions change. In some cases, electricity conservation projects are most cost-effective when they reduce the total amount of electricity consumed by an individual customer, and in other cases they can be cost-effective by reducing the amount of electricity a customer needs to purchase from an electric utility.

The legislature intends to encourage and support a broad array of cost-effective energy conservation by electric utilities and customers alike by clarifying that public utilities may assist in the financing of projects that allow customers to generate their own electricity from renewable resources that do not depend on commercial sources of fuel thereby reducing the amount of electricity a public utility needs to generate or acquire on their customers' behalf.

Sec. 2. RCW 35.92.360 and 1989 c 268 s 1 are each amended to read as follows:

Any city or town engaged in the generation, sale, or distribution of energy is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the city or town if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the city or town could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a municipal electric utility's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the city or town, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards.

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

Sec. 3. RCW 54.16.280 and 1989 c 268 s 2 are each amended to read as follows:

Any district is hereby authorized, within limits established by the Constitution of the state of Washington, to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment, for compensation or otherwise, for the conservation or more efficient use of energy in such structures or equipment pursuant to an energy conservation plan adopted by the district if the cost per unit of energy saved or produced by the use of such materials and equipment is less than the cost per unit of energy produced by the next least costly new energy resource which the district could acquire to meet future demand. Any financing authorized under this chapter shall only be used for conservation purposes in existing structures, and such financing shall not be used for any purpose which results in a conversion from one energy source to another. For the purposes of this section, "conservation purposes in existing structures" may include projects to allow a district's customers to generate all or a portion of their own electricity through the on-site installation of a distributed electricity generation system that uses as its fuel solar, wind, geothermal, or hydropower, or other renewable resource that is available on-site and not from a commercial source. Such projects shall not be considered "a conversion from one energy source to another" which is limited to the change or substitution of one commercial energy supplier for another commercial energy supplier. Except where otherwise authorized, such assistance shall be limited to:

(1) Providing an inspection of the structure or equipment, either directly or through one or more inspectors under contract, to determine and inform the owner of the estimated cost of purchasing and installing conservation materials and equipment for which financial assistance will be approved and the estimated life cycle savings in energy costs that are likely to result from the installation of such materials or equipment;

(2) Providing a list of businesses who sell and install such materials and equipment within or in close proximity to the service area of the district, each of which businesses shall have requested to be included and shall have the ability to provide the products in a workmanlike manner and to utilize such materials in accordance with the prevailing national standards.

(3) Arranging to have approved conservation materials and equipment installed by a private contractor whose bid is acceptable to the owner of the residential structure and verifying such installation; and

(4) Arranging or providing financing for the purchase and installation of approved conservation materials and equipment. Such materials and equipment shall be purchased from a private business and shall be installed by a private business or the owner.

(5) Pay back shall be in the form of incremental additions to the utility bill, billed either together with use charge or separately. Loans shall not exceed one hundred twenty months in length.

Passed the Senate February 14, 2002.
 Passed the House March 8, 2002.
 Approved by the Governor March 29, 2002.
 Filed in Office of Secretary of State March 29, 2002.

CHAPTER 277

[Senate Bill 6698]

MASSAGE PRACTITIONERS—REFLEXOLOGY EXEMPTION

AN ACT Relating to exempting reflexologists from regulation as massage practitioners; amending RCW 18.108.010 and 18.108.050; and adding a new section to chapter 18.108 RCW.

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

Sec. 1. RCW 18.108.010 and 2001 c 297 s 2 are each amended to read as follows:

In this chapter, unless the context otherwise requires, the following meanings shall apply:

- (1) "Board" means the Washington state board of massage.
- (2) "Massage" and "massage therapy" mean a health care service involving the external manipulation or pressure of soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, Swedish gymnastics or movements, gliding, kneading, shaking, and ((~~facial~~)) fascial or connective tissue stretching, with or without the aids of superficial heat, cold, water, lubricants, or salts. Massage therapy does not include diagnosis or attempts to adjust or manipulate any articulations of the body or spine or mobilization of these articulations by the use of a thrusting force, nor does it include genital manipulation.
- (3) "Massage practitioner" means an individual licensed under this chapter.
- (4) "Secretary" means the secretary of health or the secretary's designee.
- (5) "Massage business" means the operation of a business where massages are given.
- (6) "Animal massage practitioner" means an individual with a license to practice massage therapy in this state with additional training in animal therapy.

Sec. 2. RCW 18.108.050 and 1997 c 297 s 3 are each amended to read as follows:

This chapter does not apply to:

- (1) An individual giving massage to members of his or her immediate family;
- (2) The practice of a profession by individuals who are licensed, certified, or registered under other laws of this state and who are performing services within their authorized scope of practice;
- (3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;

(4) Massage practiced at the athletic department of any school or college approved by the department by rule using recognized national professional standards;

(5) Students enrolled in an approved massage school, approved program, or approved apprenticeship program, practicing massage techniques, incidental to the massage school or program and supervised by the approved school or program. Students must identify themselves as a student when performing massage services on members of the public. Students may not be compensated for the massage services they provide;

(6) Individuals who have completed a somatic education training program approved by the secretary;

(7) Persons who limit their practice to reflexology. For purposes of this chapter, the practice of reflexology is limited to the hands, feet, and outer ears. The services provided by those who limit their practice to reflexology are not designated or implied to be massage or massage therapy.

NEW SECTION. Sec. 3. A new section is added to chapter 18.108 RCW to read as follows:

The department of health shall review the implementation of this act and make recommendations to the legislature by December 1, 2005, regarding regulatory changes to this act.

- Passed the Senate February 18, 2002.
- Passed the House March 8, 2002.
- Approved by the Governor March 29, 2002.
- Filed in Office of Secretary of State March 29, 2002.

CHAPTER 278

[Engrossed Substitute Senate Bill 6703]
AGRICULTURAL LIENS

AN ACT Relating to agricultural liens; and amending RCW 60.13.010, 60.13.040, and 60.13.060.

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

Sec. 1. RCW 60.13.010 and 1991 c 174 s 2 are each amended to read as follows:

As used in this chapter, the terms defined in this section have the meanings indicated unless the context clearly requires otherwise.

(1) "Agricultural product" means any unprocessed horticultural, vermicultural and its byproducts, viticultural, berry, poultry, poultry product, grain, bee, or other agricultural products, and includes mint or mint oil processed by or for the producer thereof and hay and straw baled or prepared for market in any manner or form and livestock. When used in RCW 60.13.020, "agricultural product" means horticultural, viticultural, aquacultural, or berry products, hay and straw, milk and

milk products, vegetable seed, or turf and forage seed and applies only when such products are delivered to a processor or conditioner in an unprocessed form.

(2) "Conditioner," "consignor," "person," and "producer" have the meanings defined in RCW 20.01.010.

(3) "Delivers" means that a producer completes the performance of all contractual obligations with reference to the transfer of actual or constructive possession or control of an agricultural product to a processor or conditioner or preparer, regardless of whether the processor or conditioner or preparer takes physical possession.

(4) "Preparer" means a person engaged in the business of feeding livestock or preparing livestock products for market.

(5) "Processor" means any person, firm, company, or other organization that purchases agricultural products except milk and milk products from a consignor and that cans, freezes, dries, dehydrates, cooks, presses, powders, or otherwise processes those crops in any manner whatsoever for eventual resale, or that purchases or markets milk from a dairy producer and is obligated to remit payment to such dairy producer directly.

(6) "Commercial fisherman" means a person licensed to fish commercially for or to take food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

(7) "Fish" means food fish or shellfish or steelhead legally caught pursuant to executive order, treaty right, or federal statute.

Sec. 2. RCW 60.13.040 and 2001 c 32 s 6 are each amended to read as follows:

(1) A producer or commercial fisherman claiming a processor or preparer lien may file a statement evidencing the lien with the department of licensing after payment from the processor, conditioner, or preparer to the producer or fisherman is due and remains unpaid. For purposes of this subsection and RCW 60.13.050, payment is due on the date specified in the contract, or if not specified, then within thirty days from time of delivery.

(2) The statement shall be in a record, authenticated by the producer or fisherman, and shall contain in substance the following information:

(a) A true statement or a reasonable estimate of the amount demanded after deducting all credits and offsets;

(b) The name of the processor, conditioner, or preparer who received the agricultural product or fish to be charged with the lien;

(c) A description sufficient to identify the agricultural product or fish to be charged with the lien;

(d) A statement that the amount claimed is a true and bona fide existing debt as of the date of the filing of the notice evidencing the lien;

(e) The date on which payment was due for the agricultural product or fish to be charged with the lien; and

(f) The department of licensing may by rule prescribe standard filing forms, fees, and uniform procedures for filing with, and obtaining information from, filing officers.

Sec. 3. RCW 60.13.060 and 1987 c 148 s 5 are each amended to read as follows:

(1) The processor lien shall terminate (~~((six))~~) twelve months after, and the preparer lien shall terminate fifty days after, the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed before that time as provided in RCW 60.13.070.

(2) If a statement has been filed as provided in RCW 60.13.040 and the producer or commercial fisherman has received payment for the obligation secured by the lien, the producer or fisherman shall promptly file with the department of licensing a statement declaring that full payment has been received and that the lien is discharged. If, after payment, the producer or fisherman fails to file such statement of discharge within ten days following a request to do so, the producer or fisherman shall be liable to the processor, conditioner, or preparer in the sum of one hundred dollars plus actual damages caused by the failure.

Passed the Senate February 14, 2002.

Passed the House March 7, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 279

[Substitute Senate Bill 6748]

VEHICLE REGISTRATION TRANSFERS—IMPOUND PROCEDURES

AN ACT Relating to procedures for vehicle registration transfers and impound; amending RCW 46.12.101, 46.12.102, 46.20.031, 46.20.289, 46.55.075, 46.55.085, 46.55.100, 46.55.105, 46.55.110, 46.55.130, 46.55.230, 46.63.030, and 46.63.110; and creating new sections.

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

Sec. 1. RCW 46.12.101 and 1998 c 203 s 11 are each amended to read as follows:

A transfer of ownership in a motor vehicle is perfected by compliance with the requirements of this section.

(1) If an owner transfers his or her interest in a vehicle, other than by the creation, deletion, or change of a security interest, the owner shall, at the time of the delivery of the vehicle, execute an assignment to the transferee and provide an odometer disclosure statement under RCW 46.12.124 on the certificate of ownership or as the department otherwise prescribes, and cause the certificate and assignment to be transmitted to the transferee. The owner shall notify the department or its agents or subagents, in writing, on the appropriate form, of the date of the sale or transfer, the name and address of the owner and of the transferee, the transferee's driver's license number if available, and such description

of the vehicle, including the vehicle identification number, the license plate number, or both, as may be required in the appropriate form provided or approved for that purpose by the department. The report of sale will be deemed properly filed if all information required in this section is provided on the form and includes a department-authorized notation that the document was received by the department, its agents, or subagents on or before the fifth day after the sale of the vehicle, excluding Saturdays, Sundays, and state and federal holidays. Agents and subagents shall immediately electronically transmit the seller's report of sale to the department. Reports of sale processed and recorded by the department's agents or subagents may be subject to fees as specified in RCW 46.01.140 (4)(a) or (5)(b). By January 1, 2003, the department shall create a system enabling the seller of a vehicle to transmit the report of sale electronically. The system created by the department must immediately indicate on the department's vehicle record that a seller's report of sale has been filed.

(2) The requirements of subsection (1) of this section to provide an odometer disclosure statement apply to the transfer of vehicles held for lease when transferred to a lessee and then to the lessor at the end of the leasehold and to vehicles held in a fleet when transferred to a purchaser.

(3) Except as provided in RCW 46.70.122 the transferee shall within fifteen days after delivery to the transferee of the vehicle, execute the application for a new certificate of ownership in the same space provided therefor on the certificate or as the department prescribes, and cause the certificates and application to be transmitted to the department.

(4) Upon request of the owner or transferee, a secured party in possession of the certificate of ownership shall, unless the transfer was a breach of its security agreement, either deliver the certificate to the transferee for transmission to the department or, when the secured party receives the owner's assignment from the transferee, it shall transmit the transferee's application for a new certificate, the existing certificate, and the required fee to the department. Compliance with this section does not affect the rights of the secured party.

(5) If a security interest is reserved or created at the time of the transfer, the certificate of ownership shall be retained by or delivered to the person who becomes the secured party, and the parties shall comply with the provisions of RCW 46.12.170.

(6) If the purchaser or transferee fails or neglects to make application to transfer the certificate of ownership and license registration within fifteen days after the date of delivery of the vehicle, he or she shall on making application for transfer be assessed a twenty-five dollar penalty on the sixteenth day and two dollars additional for each day thereafter, but not to exceed one hundred dollars. The director may by rule establish conditions under which the penalty will not be assessed when an application for transfer is delayed for reasons beyond the control of the purchaser. Conditions for not assessing the penalty may be established for but not limited to delays caused by:

- (a) The department requesting additional supporting documents;
- (b) Extended hospitalization or illness of the purchaser;
- (c) Failure of a legal owner to release his or her interest;
- (d) Failure, negligence, or nonperformance of the department, auditor, or subagent.

Failure or neglect to make application to transfer the certificate of ownership and license registration within forty-five days after the date of delivery of the vehicle is a misdemeanor.

(7) Upon receipt of an application for reissue or replacement of a certificate of ownership and transfer of license registration, accompanied by the endorsed certificate of ownership or other documentary evidence as is deemed necessary, the department shall, if the application is in order and if all provisions relating to the certificate of ownership and license registration have been complied with, issue new certificates of title and license registration as in the case of an original issue and shall transmit the fees together with an itemized detailed report to the state treasurer, to be deposited in the motor vehicle fund.

(8) Once each quarter the department shall report to the department of revenue a list of those vehicles for which a seller's report has been received but no transfer of title has taken place.

Sec. 2. RCW 46.12.102 and 1984 c 39 s 2 are each amended to read as follows:

(1) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of it to a purchaser shall not by reason of any of the provisions of this title be deemed the owner of the vehicle so as to be subject to civil liability or criminal liability for the operation of the vehicle thereafter by another person when the owner has also fulfilled both of the following requirements:

~~((1))~~ (a) When ~~((he))~~ the owner has made proper endorsement and delivery of the certificate of ownership and has delivered the certificate of registration as provided in this chapter;

~~((2))~~ (b) When ~~((he))~~ the owner has delivered to the department either ~~((the notice as provided in))~~ a properly filed report of sale that includes all of the information required in RCW 46.12.101(1) and is delivered to the department within five days of the sale of the vehicle excluding Saturdays, Sundays, and state and federal holidays, or appropriate documents for registration of the vehicle pursuant to the sale or transfer.

(2) When a registered tow truck operator submits an abandoned vehicle report to the department for a vehicle sold at an abandoned vehicle auction, any previous owner is relieved of civil or criminal liability for the operation of the vehicle from the date of sale thereafter, and liability is transferred to the purchaser of the vehicle as listed on the abandoned vehicle report.

Sec. 3. RCW 46.20.031 and 1999 c 6 s 7 are each amended to read as follows:
The department shall not issue a driver's license to a person:

- (1) Who is under the age of sixteen years;
- (2) Whose driving privilege has been withheld unless and until the department may authorize the driving privilege under RCW 46.20.311;
- (3) Who has been classified as an alcoholic, drug addict, alcohol abuser, or drug abuser by a program approved by the department of social and health services. The department may, however, issue a license if the person:
 - (a) Has been granted a deferred prosecution under chapter 10.05 RCW; or
 - (b) Is satisfactorily participating in or has successfully completed an alcohol or drug abuse treatment program approved by the department of social and health services and has established control of his or her alcohol or drug abuse problem;
- (4) Who has previously been adjudged to be mentally ill or insane, or to be incompetent due to a mental disability or disease. The department shall, however, issue a license to the person if he or she otherwise qualifies and:
 - (a) Has been restored to competency by the methods provided by law; or
 - (b) The superior court finds the person able to operate a motor vehicle with safety upon the highways during such incompetency;
- (5) Who has not passed the driver's licensing examination required by RCW 46.20.120 and 46.20.305, if applicable;
- (6) Who is required under the laws of this state to deposit proof of financial responsibility and who has not deposited such proof;
- (7) Who is unable to safely operate a motor vehicle upon the highways due to a physical or mental disability. The department's conclusion that a person is barred from licensing under this subsection must be reasonable and be based upon good and substantial evidence. This determination is subject to review by a court of competent jurisdiction(;
- ~~(8) Who has violated his or her written promise to appear, respond, or comply regarding a notice of infraction issued for abandonment of a vehicle in violation of RCW 46.55.105, unless:~~
 - ~~(a) The court has not notified the department of the violation;~~
 - ~~(b) The department has received notice from the court showing that the person has been found not to have committed the violation of RCW 46.55.105, or~~
 - ~~(c) The person has paid all monetary penalties owing, including completion of community service, and the court is satisfied that the person has made restitution as provided by RCW 46.55.105(2)).~~

Sec. 4. RCW 46.20.289 and 1999 c 274 s 1 are each amended to read as follows:

The department shall suspend all driving privileges of a person when the department receives notice from a court under RCW 46.63.070(~~(5)~~) (6), 46.63.110(5), or 46.64.025 that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, other than for ~~(a notice of a violation of RCW 46.55.105 or)~~ a standing, stopping, or parking violation. A suspension under this section takes

effect thirty days after the date the department mails notice of the suspension, and remains in effect until the department has received a certificate from the court showing that the case has been adjudicated, and until the person meets the requirements of RCW 46.20.311. In the case of failure to respond to a traffic infraction issued under RCW 46.55.105, the department shall suspend all driving privileges until the person provides evidence from the court that all penalties and restitution have been paid. A suspension under this section does not take effect if, prior to the effective date of the suspension, the department receives a certificate from the court showing that the case has been adjudicated.

Sec. 5. RCW 46.55.075 and 1999 c 398 s 3 are each amended to read as follows:

(1) The Washington state patrol shall provide by rule for a uniform impound authorization and inventory form. All law enforcement agencies must use this form for all vehicle impounds after June 30, 2001.

(2) By January 1, 2003, the Washington state patrol shall develop uniform impound procedures, which must include but are not limited to defining an impound and a visual inspection. Local law enforcement agencies shall adopt the procedures by July 1, 2003.

Sec. 6. RCW 46.55.085 and 1993 c 121 s 1 are each amended to read as follows:

(1) A law enforcement officer discovering an unauthorized vehicle left within a highway right of way shall attach to the vehicle a readily visible notification sticker. The sticker shall contain the following information:

(a) The date and time the sticker was attached;

(b) The identity of the officer;

(c) A statement that if the vehicle is not removed within twenty-four hours from the time the sticker is attached, the vehicle may be taken into custody and stored at the owner's expense; ~~(and)~~

(d) A statement that if the vehicle is not redeemed as provided in RCW 46.55.120, the registered owner will have committed the traffic infraction of littering—abandoned vehicle; and

(e) The address and telephone number where additional information may be obtained.

(2) If the vehicle has current Washington registration plates, the officer shall check the records to learn the identity of the last owner of record. The officer or his department shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

(3) If the vehicle is not removed within twenty-four hours from the time the notification sticker is attached, the law enforcement officer may take custody of the vehicle and provide for the vehicle's removal to a place of safety. A vehicle that does not pose a safety hazard may remain on the roadside for more than twenty-four hours if the owner or operator is unable to remove it from the place where it is located and so notifies law enforcement officials and requests assistance.

(4) For the purposes of this section a place of safety includes the business location of a registered tow truck operator.

NEW SECTION. **Sec. 7.** The Washington state patrol and local law enforcement agencies shall convene a task force to consider the advantages and disadvantages of law enforcement agencies immediately transmitting, electronically or by facsimile, the impound authorization form to the impounding tow operator. The task force shall report its findings and recommendations to the house of representatives and senate transportation committees by January 1, 2003.

NEW SECTION. **Sec. 8.** The department of licensing shall study the feasibility of requiring the seller of a vehicle to remove the vehicle's license plates at the time of the sale. The department shall specifically examine the fiscal impacts of implementing this proposal, the experiences of other states, and the advantages and disadvantages of this proposal. The department shall report its findings and recommendations to the house of representatives and senate transportation committees by January 1, 2003.

Sec. 9. RCW 46.55.100 and 1999 c 398 s 5 are each amended to read as follows:

(1) At the time of impoundment the registered tow truck operator providing the towing service shall give immediate notification, by telephone or radio, to a law enforcement agency having jurisdiction who shall maintain a log of such reports. A law enforcement agency, or a private communication center acting on behalf of a law enforcement agency, shall within six to twelve hours of the impoundment, provide to a requesting operator the name and address of the legal and registered owners of the vehicle, and the registered owner of any personal property registered or titled with the department that is attached to or contained in or on the impounded vehicle, the vehicle identification number, and any other necessary, pertinent information. The initial notice of impoundment shall be followed by a written or electronic facsimile notice within twenty-four hours. In the case of a vehicle from another state, time requirements of this subsection do not apply until the requesting law enforcement agency in this state receives the information.

(2) The operator shall immediately send an abandoned vehicle report to the department for any vehicle, and for any items of personal property registered or titled with the department, that are in the operator's possession after the one hundred twenty hour abandonment period. Such report need not be sent when the impoundment is pursuant to a writ, court order, or police hold that is not a suspended license impound. The owner notification and abandonment process shall be initiated by the registered tow truck operator immediately following notification by a court or law enforcement officer that the writ, court order, or police hold that is not a suspended license impound is no longer in effect.

(3) Following the submittal of an abandoned vehicle report, the department shall provide the registered tow truck operator with owner information within seventy-two hours.

(4) Within fourteen days of the sale of an abandoned vehicle at public auction, the towing operator shall send a copy of the abandoned vehicle report showing the disposition of the abandoned vehicle and any other items of personal property registered or titled with the department to the ~~((crime information center of the Washington state patrol))~~ department. The vehicle buyer information sent to the department on the abandoned vehicle report relieves the previous owner of the vehicle from any civil or criminal liability for the operation of the vehicle from the date of sale thereafter and transfers full liability for the vehicle to the buyer. By January 1, 2003, the department shall create a system enabling tow truck operators the option of sending the portion of the abandoned vehicle report that contains the vehicle's buyer information to the department electronically.

(5) If the operator sends an abandoned vehicle report to the department and the department finds no owner information, an operator may proceed with an inspection of the vehicle and any other items of personal property registered or titled with the department to determine whether owner identification is within the vehicle.

(6) If the operator finds no owner identification, the operator shall immediately notify the appropriate law enforcement agency, which shall search the vehicle and any other items of personal property registered or titled with the department for the vehicle identification number or other appropriate identification numbers and check the necessary records to determine the vehicle's or other property's owners.

Sec. 10. RCW 46.55.105 and 1999 c 86 s 5 are each amended to read as follows:

(1) The abandonment of any vehicle creates a prima facie presumption that the last registered owner of record is responsible for the abandonment and is liable for costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(2) If an unauthorized vehicle is found abandoned under subsection (1) of this section and removed at the direction of law enforcement, the last registered owner of record is guilty of ~~((a))~~ the traffic infraction of "littering—abandoned vehicle," unless the vehicle is redeemed as provided in RCW 46.55.120. In addition to any other monetary penalty payable under chapter 46.63 RCW, the court shall not consider all monetary penalties as having been paid until the court is satisfied that the person found to have committed the infraction has made restitution in the amount of the deficiency remaining after disposal of the vehicle under RCW 46.55.140.

(3) A vehicle theft report filed with a law enforcement agency relieves the last registered owner of liability under subsection (2) of this section for failure to redeem the vehicle. However, the last registered owner remains liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle under subsection (1) of this section. Nothing in this section limits in any way the

registered owner's rights in a civil action or as restitution in a criminal action against a person responsible for the theft of the vehicle.

(4) Properly filing a report of sale or transfer regarding the vehicle involved in accordance with RCW 46.12.101(1) relieves the last registered owner of liability under subsections (1) and (2) of this section. If the date of sale as indicated on the report of sale is on or before the date of impoundment, the buyer identified on the latest properly filed report of sale with the department is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction. If the date of sale is after the date of impoundment, the previous registered owner is assumed to be liable for such costs. A licensed vehicle dealer is not liable under subsections (1) and (2) of this section if the dealer, as transferee or assignee of the last registered owner of the vehicle involved, has complied with the requirements of RCW 46.70.122 upon selling or otherwise disposing of the vehicle, or if the dealer has timely filed a transitional ownership record or report of sale under RCW 46.12.103. In that case the person to whom the licensed vehicle dealer has sold or transferred the vehicle is assumed liable for the costs incurred in removing, storing, and disposing of the abandoned vehicle, less amounts realized at auction.

(5) For the purposes of reporting notices of traffic infraction to the department under RCW 46.20.270 and 46.52.101, and for purposes of reporting notices of failure to appear, respond, or comply regarding a notice of traffic infraction to the department under RCW 46.63.070(~~(5)~~) (6), a traffic infraction under subsection (2) of this section is not considered to be a standing, stopping, or parking violation.

(6) A notice of infraction for a violation of this section may be filed with a court of limited jurisdiction organized under Title 3, 35, or 35A RCW, or with a violations bureau subject to the court's jurisdiction.

Sec. 11. RCW 46.55.110 and 1999 c 398 s 6 are each amended to read as follows:

(1) When an unauthorized vehicle is impounded, the impounding towing operator shall notify the legal and registered owners of the impoundment of the unauthorized vehicle and the owners of any other items of personal property registered or titled with the department. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, and the owners of any other items of personal property registered or titled with the department, as provided by the law enforcement agency, and shall inform the owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address, and telephone number. The notice shall also include the location, time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to RCW 46.55.120.

(2) In addition, if a suspended license impound has been ordered, the notice must state the length of the impound, the requirement of the posting of a security deposit to ensure payment of the costs of removal, towing, and storage, notification that if the security deposit is not posted the vehicle will immediately be processed and sold at auction as an abandoned vehicle, and the requirements set out in RCW 46.55.120(1)(b) regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

(3) In the case of an abandoned vehicle, or other item of personal property registered or titled with the department, within twenty-four hours after receiving information on the owners from the department through the abandoned vehicle report, the tow truck operator shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners and of the penalties for the traffic infraction littering—abandoned vehicle.

(4) If the date on which a notice required by subsection (3) of this section is to be mailed falls upon a Saturday, Sunday, or a postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

(5) No notices need be sent to the legal or registered owners of an impounded vehicle or other item of personal property registered or titled with the department, if the vehicle or personal property has been redeemed.

Sec. 12. RCW 46.55.130 and 2000 c 193 s 2 are each amended to read as follows:

(1) If, after the expiration of fifteen days from the date of mailing of notice of custody and sale required in RCW 46.55.110(3) to the registered and legal owners, the vehicle remains unclaimed and has not been listed as a stolen vehicle, or a suspended license impound has been directed, but no security paid under RCW 46.55.120, then the registered tow truck operator having custody of the vehicle shall conduct a sale of the vehicle at public auction after having first published a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the vehicle is located not less than three days and no more than ten days before the date of the auction. The notice shall contain a description of the vehicle including the make, model, year, and license number and a notification that a three-hour public viewing period will be available before the auction. The auction shall be held during daylight hours of a normal business day.

(2) The following procedures are required in any public auction of such abandoned vehicles:

(a) The auction shall be held in such a manner that all persons present are given an equal time and opportunity to bid;

(b) All bidders must be present at the time of auction unless they have submitted to the registered tow truck operator, who may or may not choose to use the preauction bid method, a written bid on a specific vehicle. Written bids may

be submitted up to five days before the auction and shall clearly state which vehicle is being bid upon, the amount of the bid, and who is submitting the bid;

(c) The open bid process, including all written bids, shall be used so that everyone knows the dollar value that must be exceeded;

(d) The highest two bids received shall be recorded in written form and shall include the name, address, and telephone number of each such bidder;

(e) In case the high bidder defaults, the next bidder has the right to purchase the vehicle for the amount of his or her bid;

(f) The successful bidder shall apply for title within fifteen days;

(g) The registered tow truck operator shall post a copy of the auction procedure at the bidding site. If the bidding site is different from the licensed office location, the operator shall post a clearly visible sign at the office location that describes in detail where the auction will be held. At the bidding site a copy of the newspaper advertisement that lists the vehicles for sale shall be posted;

(h) All surplus moneys derived from the auction after satisfaction of the registered tow truck operator's lien shall be remitted within thirty days to the department for deposit in the state motor vehicle fund. A report identifying the vehicles resulting in any surplus shall accompany the remitted funds. If the director subsequently receives a valid claim from the registered vehicle owner of record as determined by the department within one year from the date of the auction, the surplus moneys shall be remitted to such owner;

(i) If an operator receives no bid, or if the operator is the successful bidder at auction, the operator shall, within forty-five days, sell the vehicle to a licensed vehicle wrecker, hulk hauler, or scrap processor by use of the abandoned vehicle report-affidavit of sale, or the operator shall apply for title to the vehicle.

(3) A tow truck operator may refuse to accept a bid at an abandoned vehicle auction under this section for any reason in the operator's posted operating procedures and for any of the following reasons: (a) The bidder is currently indebted to the operator; (b) the operator has knowledge that the bidder has previously abandoned vehicles purchased at auction; or (c) the bidder has purchased, at auction, more than four vehicles in the last calendar year without obtaining title to any or all of the vehicles. In no case may an operator hold a vehicle for longer than ninety days without holding an auction on the vehicle, except for vehicles that are under a police or judicial hold.

(4)(a) In no case may the accumulation of storage charges exceed fifteen days from the date of receipt of the information by the operator from the department as provided by RCW 46.55.110(3).

(b) The failure of the registered tow truck operator to comply with the time limits provided in this chapter limits the accumulation of storage charges to five days except where delay is unavoidable. Providing incorrect or incomplete identifying information to the department in the abandoned vehicle report shall be considered a failure to comply with these time limits if correct information is available. However, storage charges begin to accrue again on the date the correct

and complete information is provided to the department by the registered tow truck operator.

Sec. 13. RCW 46.55.230 and 2001 c 139 s 3 are each amended to read as follows:

(1)(a) Notwithstanding any other provision of law, any law enforcement officer having jurisdiction, or any employee or officer of a jurisdictional health department acting pursuant to RCW 70.95.240, or any person authorized by the director shall inspect and may authorize the disposal of an abandoned junk vehicle. The person making the inspection shall record the make and vehicle identification number or license number of the vehicle if available, and shall also verify that the approximate value of the junk vehicle is equivalent only to the approximate value of the ~~((scrap in it))~~ parts.

(b) A tow truck operator may authorize the disposal of an abandoned junk vehicle if the vehicle has been abandoned two or more times, the registered ownership information has not changed since the first abandonment, and the registered owner is also the legal owner.

(2) The law enforcement officer or department representative shall provide information on the vehicle's registered and legal owner to the landowner.

(3) Upon receiving information on the vehicle's registered and legal owner, the landowner shall mail a notice to the registered and legal owners shown on the records of the department. The notification shall describe the redemption procedure and the right to arrange for the removal of the vehicle.

(4) If the vehicle remains unclaimed more than fifteen days after the landowner has mailed notification to the registered and legal owner, the landowner may dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(5) If no information on the vehicle's registered and legal owner is found in the records of the department, the landowner may immediately dispose of the vehicle or sign an affidavit of sale to be used as a title document.

(6) It is a gross misdemeanor for a person to abandon a junk vehicle on property. If a junk vehicle is abandoned, the vehicle's registered owner shall also pay a cleanup restitution payment equal to twice the costs incurred in the removal of the junk vehicle. The court shall distribute one-half of the restitution payment to the landowner of the property upon which the junk vehicle is located, and one-half of the restitution payment to the law enforcement agency or jurisdictional health department investigating the incident.

(7) For the purposes of this section, the term "landowner" includes a legal owner of private property, a person with possession or control of private property, or a public official having jurisdiction over public property.

(8) A person complying in good faith with the requirements of this section is immune from any liability arising out of an action taken or omission made in the compliance.

Sec. 14. RCW 46.63.030 and 1995 c 219 s 5 are each amended to read as follows:

(1) A law enforcement officer has the authority to issue a notice of traffic infraction:

(a) When the infraction is committed in the officer's presence;

(b) When the officer is acting upon the request of a law enforcement officer in whose presence the traffic infraction was committed; or

(c) If an officer investigating at the scene of a motor vehicle accident has reasonable cause to believe that the driver of a motor vehicle involved in the accident has committed a traffic infraction.

(2) A court may issue a notice of traffic infraction upon receipt of a written statement of the officer that there is reasonable cause to believe that an infraction was committed.

(3) If any motor vehicle without a driver is found parked, standing, or stopped in violation of this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution, the officer finding the vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to the vehicle a notice of traffic infraction.

(4) In the case of failure to redeem an abandoned vehicle under RCW 46.55.120, upon receiving a complaint by a registered tow truck operator that has incurred costs in removing, storing, and disposing of an abandoned vehicle, an officer of the law enforcement agency responsible for directing the removal of the vehicle shall send a notice of infraction by certified mail to the last known address of the ~~((registered owner of the vehicle))~~ person responsible under RCW 46.55.105. The notice must be entitled "Littering—Abandoned Vehicle" and give notice of the monetary penalty. The officer shall append to the notice of infraction, on a form prescribed by the department of licensing, a notice indicating the amount of costs incurred as a result of removing, storing, and disposing of the abandoned vehicle, less any amount realized at auction, and a statement that monetary penalties for the infraction will not be considered as having been paid until the monetary penalty payable under this chapter has been paid and the court is satisfied that the person has made restitution in the amount of the deficiency remaining after disposal of the vehicle.

Sec. 15. RCW 46.63.110 and 2001 c 289 s 2 are each amended to read as follows:

(1) A person found to have committed a traffic infraction shall be assessed a monetary penalty. No penalty may exceed two hundred and fifty dollars for each offense unless authorized by this chapter or title.

(2) The monetary penalty for a violation of RCW 46.55.105(2) is two hundred fifty dollars for each offense. No penalty assessed under this subsection (2) may be reduced.

(3) The supreme court shall prescribe by rule a schedule of monetary penalties for designated traffic infractions. This rule shall also specify the conditions under which local courts may exercise discretion in assessing fines and penalties for traffic infractions. The legislature respectfully requests the supreme court to adjust this schedule every two years for inflation.

~~((3))~~ (4) There shall be a penalty of twenty-five dollars for failure to respond to a notice of traffic infraction except where the infraction relates to parking as defined by local law, ordinance, regulation, or resolution or failure to pay a monetary penalty imposed pursuant to this chapter. A local legislative body may set a monetary penalty not to exceed twenty-five dollars for failure to respond to a notice of traffic infraction relating to parking as defined by local law, ordinance, regulation, or resolution. The local court, whether a municipal, police, or district court, shall impose the monetary penalty set by the local legislative body.

~~((4))~~ (5) Monetary penalties provided for in chapter 46.70 RCW which are civil in nature and penalties which may be assessed for violations of chapter 46.44 RCW relating to size, weight, and load of motor vehicles are not subject to the limitation on the amount of monetary penalties which may be imposed pursuant to this chapter.

~~((5))~~ (6) Whenever a monetary penalty is imposed by a court under this chapter it is immediately payable. If the person is unable to pay at that time the court may, in its discretion, grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment the court shall notify the department of the failure to pay the penalty, and the department shall suspend the person's driver's license or driving privilege until the penalty has been paid and the penalty provided in subsection ~~((3))~~ (4) of this section has been paid.

~~((6))~~ (7) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction shall be assessed a fee of five dollars per infraction. Under no circumstances shall this fee be reduced or waived. Revenue from this fee shall be forwarded to the state treasurer for deposit in the emergency medical services and trauma care system trust account under RCW 70.168.040.

~~((7))~~ (8)(a) In addition to any other penalties imposed under this section and not subject to the limitation of subsection (1) of this section, a person found to have committed a traffic infraction other than of RCW 46.61.527 shall be assessed an additional penalty of ten dollars. The court may not reduce, waive, or suspend the additional penalty unless the court finds the offender to be indigent. If a community service program for offenders is available in the jurisdiction, the court shall allow offenders to offset all or a part of the penalty due under this subsection ~~((7))~~ (8) by participation in the community service program.

(b) Revenue from the additional penalty must be remitted under chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted under this subsection to the state treasurer must be deposited as provided in RCW 43.08.250. The balance

of the revenue received by the county or city treasurer under this subsection must be deposited into the county or city current expense fund. Moneys retained by the city or county under this subsection shall constitute reimbursement for any liabilities under RCW 43.135.060.

Passed the Senate March 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor March 29, 2002.

Filed in Office of Secretary of State March 29, 2002.

CHAPTER 280

[Substitute House Bill 2758]

AGRICULTURAL CONSERVATION EASEMENTS PROGRAM

AN ACT Relating to establishing the agricultural conservation easements program; adding new sections to chapter 89.08 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. Among the rising costs that are increasingly driving Washington farmers out of business is the cost of land. Many of our oldest, well-established farms, often on the fringes of established communities, are under growing pressure to be sold for uses other than agriculture. In the face of these rising land costs, new farmers are finding it increasingly difficult to be able to afford to purchase farmland.

At the same time, the conversion of these prime farmlands to development costs our communities open and green space, reduces our access to local quality food, diminishes our cultural and historic roots, often represents a fiscal loss for governments, and frequently results in environmental costs including reduced flood detention, loss of surface water filtration, diminished aquifer recharge, loss of habitat and connective wildlife migration corridors, and loss of opportunities to protect riparian lands.

These concerns, among others, are leading the federal government and local jurisdictions around our state to provide funding for local programs to purchase agricultural conservation easements that help keep farmers in farming and farmland in agriculture. It is the intent of the legislature to create a Washington purchase of agricultural conservation easements program that will facilitate the use of federal funds, ease the burdens of local governments launching similar programs at the local level, and help local governments fight the conversion of agricultural lands they have not otherwise protected through their planning processes.

NEW SECTION. Sec. 2. A new section is added to chapter 89.08 RCW to read as follows:

(1) The agricultural conservation easements program is created. The state conservation commission shall manage the program and adopt rules as necessary to implement the legislature's intent.

(2) The commission shall report to the legislature on an on-going basis regarding potential funding sources for the purchase of agricultural conservation easements under the program and recommend changes to existing funding authorized by the legislature.

(3) All funding for the program shall be deposited into the agricultural conservation easements account created in section 3 of this act. Expenditures from the account shall be made to local governments and private nonprofits on a match or no match required basis at the discretion of the commission.

(4) Easements purchased with money from the agricultural conservation easements account run with the land.

NEW SECTION. **Sec. 3.** A new section is added to chapter 89.08 RCW to read as follows:

(1) The agricultural conservation easements account is created in the custody of the state treasurer. All receipts from legislative appropriations, other sources as directed by the legislature, and gifts, grants, or endowments from public or private sources must be deposited into the account. Expenditures from the account may be used only for the purchase of easements under the agricultural conservation easements program. Only the state conservation commission, or the executive director of the commission on the commission's behalf, may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The commission is authorized to receive and expend gifts, grants, or endowments from public or private sources that are made available, in trust or otherwise, for the use and benefit of the agricultural conservation easements program.

Passed the House February 14, 2002.

Passed the Senate March 4, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 281

[Substitute Senate Bill 6553]

INVASIVE AQUATIC SPECIES

AN ACT Relating to invasive aquatic species; amending RCW 77.08.010, 77.12.020, and 77.15.290; reenacting and amending RCW 77.15.080; adding a new section to chapter 77.15 RCW; adding new sections to chapter 77.12 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** The legislature recognizes the potential economic and environmental damage that can occur from the introduction of invasive aquatic species. The purpose of this act is to increase public awareness of invasive aquatic species and enhance the department of fish and wildlife's regulatory capability to address threats posed by these species.

Sec. 2. RCW 77.08.010 and 2001 c 253 s 10 are each amended to read as follows:

As used in this title or rules adopted under this title, unless the context clearly requires otherwise:

(1) "Director" means the director of fish and wildlife.

(2) "Department" means the department of fish and wildlife.

(3) "Commission" means the state fish and wildlife commission.

(4) "Person" means and includes an individual; a corporation; a public or private entity or organization; a local, state, or federal agency; all business organizations, including corporations and partnerships; or a group of two or more individuals acting with a common purpose whether acting in an individual, representative, or official capacity.

(5) "Fish and wildlife officer" means a person appointed and commissioned by the director, with authority to enforce this title and rules adopted pursuant to this title, and other statutes as prescribed by the legislature. Fish and wildlife officer includes a person commissioned before June 11, 1998, as a wildlife agent or a fisheries patrol officer.

(6) "Ex officio fish and wildlife officer" means a commissioned officer of a municipal, county, state, or federal agency having as its primary function the enforcement of criminal laws in general, while the officer is in the appropriate jurisdiction. The term "ex officio fish and wildlife officer" includes special agents of the national marine fisheries service, state parks commissioned officers, United States fish and wildlife special agents, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(7) "To hunt" and its derivatives means an effort to kill, injure, capture, or harass a wild animal or wild bird.

(8) "To trap" and its derivatives means a method of hunting using devices to capture wild animals or wild birds.

(9) "To fish," "to harvest," and "to take," and their derivatives means an effort to kill, injure, harass, or catch a fish or shellfish.

(10) "Open season" means those times, manners of taking, and places or waters established by rule of the commission for the lawful hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that conform to the special restrictions or physical descriptions established by rule of the commission or that have otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission. "Open season" includes the first and last days of the established time.

(11) "Closed season" means all times, manners of taking, and places or waters other than those established by rule of the commission as an open season. "Closed season" also means all hunting, fishing, taking, or possession of game animals, game birds, game fish, food fish, or shellfish that do not conform to the special restrictions or physical descriptions established by rule of the commission as an

open season or that have not otherwise been deemed legal to hunt, fish, take, harvest, or possess by rule of the commission as an open season.

(12) "Closed area" means a place where the hunting of some or all species of wild animals or wild birds is prohibited.

(13) "Closed waters" means all or part of a lake, river, stream, or other body of water, where fishing or harvesting is prohibited.

(14) "Game reserve" means a closed area where hunting for all wild animals and wild birds is prohibited.

(15) "Bag limit" means the maximum number of game animals, game birds, or game fish which may be taken, caught, killed, or possessed by a person, as specified by rule of the commission for a particular period of time, or as to size, sex, or species.

(16) "Wildlife" means all species of the animal kingdom whose members exist in Washington in a wild state. This includes but is not limited to mammals, birds, reptiles, amphibians, fish, and invertebrates. The term "wildlife" does not include feral domestic mammals, old world rats and mice of the family Muridae of the order Rodentia, or those fish, shellfish, and marine invertebrates classified as food fish or shellfish by the director. The term "wildlife" includes all stages of development and the bodily parts of wildlife members.

(17) "Wild animals" means those species of the class Mammalia whose members exist in Washington in a wild state and the species *Rana catésbeiana* (bullfrog). The term "wild animal" does not include feral domestic mammals or old world rats and mice of the family Muridae of the order Rodentia.

(18) "Wild birds" means those species of the class Aves whose members exist in Washington in a wild state.

(19) "Protected wildlife" means wildlife designated by the commission that shall not be hunted or fished.

(20) "Endangered species" means wildlife designated by the commission as seriously threatened with extinction.

(21) "Game animals" means wild animals that shall not be hunted except as authorized by the commission.

(22) "Fur-bearing animals" means game animals that shall not be trapped except as authorized by the commission.

(23) "Game birds" means wild birds that shall not be hunted except as authorized by the commission.

(24) "Predatory birds" means wild birds that may be hunted throughout the year as authorized by the commission.

(25) "Deleterious exotic wildlife" means species of the animal kingdom not native to Washington and designated as dangerous to the environment or wildlife of the state.

(26) "Game farm" means property on which wildlife is held or raised for commercial purposes, trade, or gift. The term "game farm" does not include publicly owned facilities.

(27) "Person of disability" means a permanently disabled person who is not ambulatory without the assistance of a wheelchair, crutches, or similar devices.

(28) "Fish" includes all species classified as game fish or food fish by statute or rule, as well as all fin fish not currently classified as food fish or game fish if such species exist in state waters. The term "fish" includes all stages of development and the bodily parts of fish species.

(29) "Raffle" means an activity in which tickets bearing an individual number are sold for not more than twenty-five dollars each and in which a permit or permits are awarded to hunt or for access to hunt big game animals or wild turkeys on the basis of a drawing from the tickets by the person or persons conducting the raffle.

(30) "Youth" means a person fifteen years old for fishing and under sixteen years old for hunting.

(31) "Senior" means a person seventy years old or older.

(32) "License year" means the period of time for which a recreational license is valid. The license year begins April 1st, and ends March 31st.

(33) "Saltwater" means those marine waters seaward of river mouths.

(34) "Freshwater" means all waters not defined as saltwater including, but not limited to, rivers upstream of the river mouth, lakes, ponds, and reservoirs.

(35) "State waters" means all marine waters and fresh waters within ordinary high water lines and within the territorial boundaries of the state.

(36) "Offshore waters" means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

(37) "Concurrent waters of the Columbia river" means those waters of the Columbia river that coincide with the Washington-Oregon state boundary.

(38) "Resident" means a person who has maintained a permanent place of abode within the state for at least ninety days immediately preceding an application for a license, has established by formal evidence an intent to continue residing within the state, and who is not licensed to hunt or fish as a resident in another state.

(39) "Nonresident" means a person who has not fulfilled the qualifications of a resident.

(40) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that shall not be taken except as authorized by rule of the commission. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(41) "Commercial" means related to or connected with buying, selling, or bartering.

(42) "To process" and its derivatives mean preparing or preserving fish, wildlife, or shellfish.

(43) "Personal use" means for the private use of the individual taking the fish or shellfish and not for sale or barter.

(44) "Angling gear" means a line attached to a rod and reel capable of being held in hand while landing the fish or a hand-held line operated without rod or reel.

(45) "Fishery" means the taking of one or more particular species of fish or shellfish with particular gear in a particular geographical area.

(46) "Limited-entry license" means a license subject to a license limitation program established in chapter 77.70 RCW.

(47) "Seaweed" means marine aquatic plant species that are dependent upon the marine aquatic or tidal environment, and exist in either an attached or free floating form, and includes but is not limited to marine aquatic plants in the classes Chlorophyta, Phaeophyta, and Rhodophyta.

(48) "Trafficking" means offering, attempting to engage, or engaging in sale, barter, or purchase of fish, shellfish, wildlife, or deleterious exotic wildlife.

(49) "Invasive species" means a plant species or a nonnative animal species that either:

(a) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities;

(b) Threatens or may threaten natural resources or their use in the state;

(c) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or

(d) Threatens or harms human health.

(50) "Prohibited aquatic animal species" means an invasive species of the animal kingdom that has been classified as a prohibited aquatic animal species by the commission.

(51) "Regulated aquatic animal species" means a potentially invasive species of the animal kingdom that has been classified as a regulated aquatic animal species by the commission.

(52) "Unregulated aquatic animal species" means a nonnative animal species that has been classified as an unregulated aquatic animal species by the commission.

(53) "Unlisted aquatic animal species" means a nonnative animal species that has not been classified as a prohibited aquatic animal species, a regulated aquatic animal species, or an unregulated aquatic animal species by the commission.

(54) "Aquatic plant species" means an emergent, submersed, partially submersed, free-floating, or floating-leaving plant species that grows in or near a body of water or wetland.

Sec. 3. RCW 77.12.020 and 1994 c 264 s 53 are each amended to read as follows:

(1) The director shall investigate the habits and distribution of the various species of wildlife native to or adaptable to the habitats of the state. The commission shall determine whether a species should be managed by the department and, if so, classify it under this section.

(2) The commission may classify by rule wild animals as game animals and game animals as fur-bearing animals.

(3) The commission may classify by rule wild birds as game birds or predatory birds. All wild birds not otherwise classified are protected wildlife.

(4) In addition to those species listed in RCW 77.08.020, the commission may classify by rule as game fish other species of the class Osteichthyes that are commonly found in fresh water except those classified as food fish by the director.

(5) The director may recommend to the commission that a species of wildlife should not be hunted or fished. The commission may designate species of wildlife as protected.

(6) If the director determines that a species of wildlife is seriously threatened with extinction in the state of Washington, the director may request its designation as an endangered species. The commission may designate an endangered species.

(7) If the director determines that a species of the animal kingdom, not native to Washington, is dangerous to the environment or wildlife of the state, the director may request its designation as deleterious exotic wildlife. The commission may designate deleterious exotic wildlife.

(8) Upon recommendation by the director, the commission may classify nonnative aquatic animal species according to the following categories:

(a) Prohibited aquatic animal species: These species are considered by the commission to have a high risk of becoming an invasive species and may not be possessed, imported, purchased, sold, propagated, transported, or released into state waters except as provided in section 4 of this act;

(b) Regulated aquatic animal species: These species are considered by the commission to have some beneficial use along with a moderate, but manageable risk of becoming an invasive species, and may not be released into state waters, except as provided in section 4 of this act. The commission shall classify the following commercial aquaculture species as regulated aquatic animal species, and allow their release into state waters pursuant to rule of the commission: Pacific oyster (*Crassostrea gigas*), kumamoto oyster (*Crassostrea sikamea*), European flat oyster (*Ostrea edulis*), eastern oyster (*Crassostrea virginica*), manila clam (*Tapes philippinarum*), blue mussel (*Mytilus galloprovincialis*), and suminoe oyster (*Crassostrea ariankensis*);

(c) Unregulated aquatic animal species: These species are considered by the commission as having some beneficial use along with a low risk of becoming an invasive species, and are not subject to regulation under this title;

(d) Unlisted aquatic animal species: These species are not designated as a prohibited aquatic animal species, regulated aquatic animal species, or unregulated aquatic animal species by the commission, and may not be released into state waters. Upon request, the commission may determine the appropriate category for an unlisted aquatic animal species and classify the species accordingly;

(e) This subsection (8) does not apply to the transportation or release of nonnative aquatic animal species by ballast water or ballast water discharge.

(9) Upon recommendation by the director, the commission may develop a work plan to eradicate native aquatic species that threaten human health. Priority

shall be given to water bodies that the department of health has classified as representing a threat to human health based on the presence of a native aquatic species.

NEW SECTION. Sec. 4. A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawful use of a prohibited aquatic animal species if he or she possesses, imports, purchases, sells, propagates, transports, or releases a prohibited aquatic animal species within the state, except as provided in this section.

(2) Unless otherwise prohibited by law, a person may:

(a) Transport prohibited aquatic animal species to the department, or to another destination designated by the director, in a manner designated by the director, for purposes of identifying a species or reporting the presence of a species;

(b) Possess a prohibited aquatic animal species if he or she is in the process of removing it from watercraft or equipment in a manner specified by the department;

(c) Release a prohibited aquatic animal species if the species was caught while fishing and it is being immediately returned to the water from which it came; or

(d) Possess, transport, or release a prohibited aquatic animal species as the commission may otherwise prescribe.

(3) Unlawful use of a prohibited aquatic animal species is a gross misdemeanor. A subsequent violation of subsection (1) of this section within five years is a class C felony.

(4) A person is guilty of unlawful release of a regulated aquatic animal species if he or she releases a regulated aquatic animal species into state waters, unless allowed by the commission.

(5) Unlawful release of a regulated aquatic animal species is a gross misdemeanor.

(6) A person is guilty of unlawful release of an unlisted aquatic animal species if he or she releases an unlisted aquatic animal species into state waters without requesting a commission designation under RCW 77.12.020.

(7) Unlawful release of an unlisted aquatic animal species is a gross misdemeanor.

(8) This section does not apply to the transportation or release of organisms in ballast water.

NEW SECTION. Sec. 5. A new section is added to chapter 77.12 RCW to read as follows:

(1) The commission may designate by rule state waters as infested if the director determines that these waters contain a prohibited aquatic animal species.

(2) The commission, in consultation with the department of ecology, may designate state waters as infested if it is determined that these waters contain an invasive aquatic plant species.

(3) The department shall work with the aquatic nuisance species committee and its member agencies to create educational materials informing the public of state waters that are infested with invasive species, and advise them of applicable rules and practices designed to reduce the spread of the invasive species infesting the waters.

NEW SECTION. Sec. 6. A new section is added to chapter 77.12 RCW to read as follows:

(1) The director shall create a rapid response plan in cooperation with the aquatic nuisance species committee and its member agencies that describes actions to be taken when a prohibited aquatic animal species is found to be infesting a water body. These actions include eradication or control programs where feasible and containment of infestation where practical through notification, public education, and the enforcement of regulatory programs.

(2) The commission may adopt rules to implement the rapid response plan.

(3) The director, the department of ecology, and the Washington state parks and recreation commission may post signs at water bodies that are infested with aquatic animal species that are classified as prohibited aquatic animal species under RCW 77.12.020 or with invasive species of the plant kingdom. The signs should identify the prohibited plant and animal species present and warn users of the water body of the hazards and penalties for possessing and transporting these species. Educational signs may be placed at uninfested sites.

Sec. 7. RCW 77.15.290 and 2001 c 253 s 35 are each amended to read as follows:

(1) A person is guilty of unlawful transportation of fish or wildlife in the second degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any rule of the commission or the director governing the transportation or movement of fish, shellfish, or wildlife and the transportation does not involve big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife having a value greater than two hundred fifty dollars; or

(b) Possesses but fails to affix or notch a big game transport tag as required by rule of the commission or director.

(2) A person is guilty of unlawful transportation of fish or wildlife in the first degree if the person:

(a) Knowingly imports, moves within the state, or exports fish, shellfish, or wildlife in violation of any rule of the commission or the director governing the transportation or movement of fish, shellfish, or wildlife and the transportation involves big game, endangered fish or wildlife, deleterious exotic wildlife, or fish, shellfish, or wildlife with a value of two hundred fifty dollars or more; or

(b) Knowingly transports shellfish, shellstock, or equipment used in commercial culturing, taking, handling, or processing shellfish without a permit required by authority of this title.

(3)(a) Unlawful transportation of fish or wildlife in the second degree is a misdemeanor.

(b) Unlawful transportation of fish or wildlife in the first degree is a gross misdemeanor.

(4) A person is guilty of unlawful transport of aquatic plants if the person transports aquatic plants on any state or public road, including forest roads, except as provided in this section.

(5) Unless otherwise prohibited by law, a person may transport aquatic plants:

(a) To the department, or to another destination designated by the director, in a manner designated by the department, for purposes of identifying a species or reporting the presence of a species;

(b) When legally obtained for aquarium use, wetland or lakeshore restoration, or ornamental purposes;

(c) When transporting a commercial aquatic plant harvester to a suitable location for purposes of removing aquatic plants;

(d) In a manner that prevents their unintentional dispersal, to a suitable location for disposal, research, or educational purposes; or

(e) As the commission may otherwise prescribe.

(6) Unlawful transport of aquatic plants is a misdemeanor.

Sec. 8. RCW 77.15.080 and 2001 c 306 s 1 and 2001 c 253 s 23 are each reenacted and amended to read as follows:

(1) Based upon articulable facts that a person is engaged in fishing, harvesting, or hunting activities, fish and wildlife officers have the authority to temporarily stop the person and check for valid licenses, tags, permits, stamps, or catch record cards, and to inspect all fish, shellfish, seaweed, and wildlife in possession as well as the equipment being used to ensure compliance with the requirements of this title, and may request the person to write his or her signature for comparison with the signature on the license. Failure to comply with the request is prima facie evidence that the person is not the person named on the license. For licenses purchased over the internet or telephone, fish and wildlife officers may require the person, if age eighteen or older, to exhibit a driver's license or other photo identification.

(2) Based upon articulable facts that a person is transporting a prohibited aquatic animal species or any aquatic plant, fish and wildlife officers and ex officio fish and wildlife officers have the authority to temporarily stop the person and inspect the watercraft to ensure that the watercraft and associated equipment are not transporting prohibited aquatic animal species or aquatic plants.

NEW SECTION. Sec. 9. In consultation with the aquatic nuisance species committee, the director of the department of fish and wildlife and the chief of the state patrol must jointly develop a plan to inspect watercraft entering the state to prevent the introduction of invasive aquatic species. The plan shall be provided to the legislature by December 2003.

Passed the Senate March 12, 2002.
Passed the House March 6, 2002.
Approved by the Governor April 1, 2002.
Filed in Office of Secretary of State April 1, 2002.

CHAPTER 282

[Senate Bill 6538]

BALLAST WATER

AN ACT Relating to ballast water: amending RCW 77.120.030, 77.120.040, and 77.120.060; adding a new section to chapter 77.120 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.** (1) The director of the department of fish and wildlife must establish the ballast water work group.

(2) The ballast water work group consists of the following individuals:

(a) One staff person from the governor's executive policy office. This person must act as chair of the ballast water work group;

(b) Two representatives from the Puget Sound steamship operators;

(c) Two representatives from the Columbia river steamship operators;

(d) Three representatives from the Washington public ports, one of whom must be a marine engineer;

(e) Two representatives from the petroleum transportation industry;

(f) One representative from the Puget Sound water quality action team; and

(g) Two representatives from the environmental community.

(3) The ballast water work group must study, and provide a report to the legislature by December 15, 2003, the following issues:

(a) All issues relating to ballast water technology, including exchange and treatment methods and the associated costs;

(b) The services needed by the industry and the state to protect the marine environment; and

(c) The costs associated with, and possible funding methods for, implementing the ballast water program.

(4) The ballast water work group must begin operation immediately upon the effective date of this section. The department of fish and wildlife must provide staff for the ballast water work group. The staff must come from existing personnel within the department of fish and wildlife.

(5) The director must also monitor the activities of the task force created by the state of Oregon in 2001 Or. Laws 722, concerning ballast water management. The director shall provide the ballast water work group with periodic updates of the Oregon task force's efforts at developing a ballast water management system.

(6)(a) The ballast water work group expires June 30, 2004.

(b) This section expires June 30, 2004.

Sec. 2. RCW 77.120.030 and 2000 c 108 s 4 are each amended to read as follows:

The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control does not discharge ballast water into the waters of the state except as authorized by this section.

(1) Discharge into waters of the state is authorized if the vessel has conducted an open sea exchange of ballast water. A vessel is exempt from this requirement if the vessel's master reasonably determines that such a ballast water exchange operation will threaten the safety of the vessel or the vessel's crew, or is not feasible due to vessel design limitations or equipment failure. If a vessel relies on this exemption, then it may discharge ballast water into waters of the state, subject to any requirements of treatment under subsection (2) of this section and subject to RCW 77.120.040.

(2) After July 1, (~~2002~~) 2004, discharge of ballast water into waters of the state is authorized only if there has been an open sea exchange or if the vessel has treated its ballast water to meet standards set by the department. When weather or extraordinary circumstances make access to treatment unsafe to the vessel or crew, the master of a vessel may delay compliance with any treatment required under this subsection until it is safe to complete the treatment.

(3) The requirements of this section do not apply to a vessel discharging ballast water or sediments that originated solely within the waters of Washington state, the Columbia river system, or the internal waters of British Columbia south of latitude fifty degrees north, including the waters of the Straits of Georgia and Juan de Fuca.

(4) Open sea exchange is an exchange that occurs fifty or more nautical miles offshore. If the United States coast guard requires a vessel to conduct an exchange further offshore, then that distance is the required distance for purposes of compliance with this chapter.

Sec. 3. RCW 77.120.040 and 2000 c 108 s 5 are each amended to read as follows:

The owner or operator in charge of any vessel covered by this chapter is required to ensure that the vessel under their ownership or control complies with the reporting and sampling requirements of this section.

(1) Vessels covered by this chapter must report ballast water management information to the department using ballast water management forms that are acceptable to the United States coast guard. The frequency, manner, and form of such reporting shall be established by the department by rule. Any vessel may rely on a recognized marine trade association to collect and forward this information to the department.

(2) In order to monitor the effectiveness of national and international efforts to prevent the introduction of nonindigenous species, all vessels covered by this chapter must submit nonindigenous species ballast water monitoring data. The

monitoring, sampling, testing protocols, and methods of identifying nonindigenous species in ballast water shall be determined by the department by rule. A vessel covered by this chapter may contract with a recognized marine trade association to randomly sample vessels within that association's membership, and provide data to the department.

(3) Vessels that do not belong to a recognized marine trade association must submit individual ballast tank sample data to the department for each voyage.

(4) All data submitted to the department under subsection (2) of this section shall be consistent with sampling and testing protocols as adopted by the department by rule.

(5) The department shall adopt rules to implement this section. The rules and recommendations shall be developed in consultation with advisors from regulated industries and the potentially affected parties, including but not limited to shipping interests, ports, shellfish growers, fisheries, environmental interests, interested citizens who have knowledge of the issues, and appropriate governmental representatives including the United States coast guard. In recognition of the need to have a coordinated response to ballast water management for the Columbia river system, the department must consider rules adopted by the state of Oregon when adopting rules under this section for ballast water management in the navigable waters of the Columbia river system.

(a) The department shall set standards for the discharge of treated ballast water into the waters of the state. The rules are intended to ensure that the discharge of treated ballast water poses minimal risk of introducing nonindigenous species. In developing this standard, the department shall consider the extent to which the requirement is technologically and practically feasible. Where practical and appropriate, the standards shall be compatible with standards set by the United States coast guard and shall be developed in consultation with federal and state agencies to ensure consistency with the federal clean water act, 33 U.S.C. Sec. 1251-1387.

(b) The department shall adopt ballast water sampling and testing protocols for monitoring the biological components of ballast water that may be discharged into the waters of the state under this chapter. Monitoring data is intended to assist the department in evaluating the risk of new, nonindigenous species introductions from the discharge of ballast water, and to evaluate the accuracy of ballast water exchange practices. The sampling and testing protocols must consist of cost-effective, scientifically verifiable methods that, to the extent practical and without compromising the purposes of this chapter, utilize easily measured indices, such as salinity, or check for species that indicate the potential presence of nonindigenous species or pathogenic species. The department shall specify appropriate quality assurance and quality control for the sampling and testing protocols.

Sec. 4. RCW 77.120.060 and 2000 c 108 s 7 are each amended to read as follows:

The legislature recognizes that international and national laws relating to this chapter are changing and that state law must adapt accordingly. The department shall submit to the legislature, and make available to the public, a report that summarizes the results of this chapter and makes recommendations for improvement to this chapter on or before December 1, 2001, and a second report on or before December 1, 2004. The ~~((2001))~~ 2004 report shall describe how the costs of treatment required as of July 1, ~~((2002))~~ 2004, will be substantially equivalent among ports where treatment is required. The 2004 report must describe how the states of Washington and Oregon are coordinating their efforts for ballast water management in the Columbia river system. The department shall strive to fund the provisions of this chapter through existing resources, cooperative agreements with the maritime industry, and federal funding sources.

NEW SECTION. Sec. 5. A new section is added to chapter 77.120 RCW to read as follows:

The department, working with the United States coast guard and the marine exchanges, will work cooperatively to improve the ballast water information system and make improvements no later than October 1, 2002. The cooperative effort will strive to obtain ballast water reports for the United States coast guard under contract. The reports may be used for ballast water management information under this chapter and be forwarded to the United States coast guard for its management purposes. Prior to July 1, 2002, the department must take steps to reduce or eliminate the costs of reporting.

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

*Sec. 6 was vetoed. See message at end of chapter.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 1, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 1, 2002.

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

"I am returning herewith, without my approval as to section 6, Senate Bill No. 6538 entitled:

"AN ACT Relating to ballast water;"

Senate Bill No. 6538 requires the director of the Department of Fish and Wildlife to establish a work group to study issues related to ballast water, including treatment technologies to prevent the spread of invasive species and other pollutants. The group will also examine rules for the treatment and disposal of ballast water in Washington waters.

Section 6 of the bill was an emergency clause, which would have made the law effective upon my signature. I believe the emergency clause is unnecessary for this bill.

For these reasons, I have vetoed section 6 of Senate Bill No. 6538.

With the exception of section 6, Senate Bill No. 6538 is approved."

CHAPTER 283

[Second Substitute Senate Bill 6353]

MIGRATORY BIRD STAMPS

AN ACT Relating to migratory bird stamps; and amending RCW 77.32.350 and 77.12.670.

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

Sec. 1. RCW 77.32.350 and 2000 c 107 s 270 are each amended to read as follows:

In addition to a small game hunting license, a supplemental permit or stamp is required to hunt for western Washington pheasant or migratory birds.

(1) A western Washington pheasant permit is required to hunt for pheasant in western Washington. Western Washington pheasant permits must contain numbered spaces for recording the location and date of harvest of each western Washington pheasant.

(2) The permit shall be available as a season option, a youth full season option, or a three-day option. The fee for this permit is:

(a) For the resident and nonresident full season option, thirty-six dollars;

(b) For the youth full season option, eighteen dollars;

(c) For the three-day option, twenty dollars.

~~(3) ((A migratory bird stamp affixed to a hunting license designated by rule of the commission is required for all persons sixteen years of age or older to hunt migratory birds. The fee for the stamp for hunters is six dollars for residents and nonresidents. The fee for the stamp for collectors is six dollars.~~

~~—(4) The migratory bird stamp shall be validated by the signature of the licensee written across the face of the stamp)) A migratory bird validation is required for all persons sixteen years of age or older to hunt migratory birds. The fee for the validation for hunters is ten dollars for residents and nonresidents. The fee for the stamp for collectors is ten dollars.~~

(4) The migratory bird license must be validated at the time of signature of the licensee.

Sec. 2. RCW 77.12.670 and 1998 c 191 s 32 are each amended to read as follows:

(1) The migratory bird stamp to be produced by the department shall use the design as provided by the migratory waterfowl art committee.

(2) All revenue derived from the sale of ~~((the))~~ migratory bird license validations or stamps by the department to any person hunting waterfowl or to any stamp collector shall be deposited in the state wildlife fund and shall be used only for that portion of the cost of printing and production of the stamps for migratory waterfowl hunters as determined by subsection (4) of this section, and for those migratory waterfowl projects specified by the director of the department for the acquisition and development of migratory waterfowl habitat in the state and for the enhancement, protection, and propagation of migratory waterfowl in the state. Migratory bird license validation and stamp funds may not be used on lands controlled by private hunting clubs or on private lands that charge a fee for public

access. Migratory bird license validation and stamp funds may be used for migratory waterfowl projects on private land where public hunting is provided by written permission or on areas established by the department as waterfowl hunting closures.

(3) All revenue derived from the sale of the license validation and stamp by the department to persons hunting solely nonwaterfowl migratory birds shall be deposited in the state wildlife fund and shall be used only for that portion of the cost of printing and production of the stamps for nonwaterfowl migratory bird hunters as determined by subsection (4) of this section, and for those nonwaterfowl migratory bird projects specified by the director for the acquisition and development of nonwaterfowl migratory bird habitat in the state and for the enhancement, protection, and propagation of nonwaterfowl migratory birds in the state.

(4) With regard to the revenue from license validation and stamp sales that is not the result of sales to stamp collectors, the department shall determine the proportion of migratory waterfowl hunters and solely nonwaterfowl migratory bird hunters by using the yearly migratory bird hunter harvest information program survey results or, in the event that these results are not available, other similar survey results. A two-year average of the most recent survey results shall be used to determine the proportion of the revenue attributed to migratory waterfowl hunters and the proportion attributed to solely nonwaterfowl migratory bird hunters for each fiscal year. For fiscal year 1998-99 and for fiscal year 1999-2000, ninety-six percent of the stamp revenue shall be attributed to migratory waterfowl hunters and four percent of the stamp revenue shall be attributed to solely nonwaterfowl migratory game hunters.

(5) Acquisition shall include but not be limited to the acceptance of gifts of real estate or any interest therein or the rental, lease, or purchase of real estate or any interest therein. If the department acquires any fee interest, leasehold, or rental interest in real property under this section, it shall allow the general public reasonable access to that property and shall, if appropriate, ~~((insure))~~ ensure that the deed or other instrument creating the interest allows such access to the general public. If the department obtains a covenant in real property in its favor or an easement or any other interest in real property under this section, it shall exercise its best efforts to ~~((insure))~~ ensure that the deed or other instrument creating the interest grants to the general public in the form of a covenant running with the land reasonable access to the property. The private landowner from whom the department obtains such a covenant or easement shall retain the right of granting access to the lands by written permission, but may not charge a fee for access.

(6) The department may produce migratory bird stamps in any given year in excess of those necessary for sale in that year. The excess stamps may be sold to the migratory waterfowl art committee for sale to the public.

Passed the Senate March 13, 2002.
Passed the House March 13, 2002.
Approved by the Governor April 1, 2002.
Filed in Office of Secretary of State April 1, 2002.

CHAPTER 284

[Substitute Senate Bill 6575]
NATURAL AREA PRESERVES

AN ACT Relating to natural area preserves; and amending RCW 79.70.030, 79.70.060, and 79.70.080.

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

Sec. 1. RCW 79.70.030 and 1994 c 264 s 61 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, including:

(a) Limiting public access to natural area preserves consistent with the purposes of this chapter. Where appropriate, and on a case-by-case basis, a buffer zone with an increased low level of public access may be created around the environmentally sensitive areas;

(b) Developing a management plan for each designated natural area preserve. The plan must identify the significant resources to be conserved consistent with the purposes of this chapter and identify the areas with potential for low-impact public and environmental educational uses. The plan must specify the types of management activities and public uses that are permitted, consistent with the purposes of this chapter. The department must make the plans available for review and comment by the public, and state, tribal, and local agencies, prior to final approval;

(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 fish and 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~~) that includes natural resources conservation areas, and 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 34.05 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. 2. RCW 79.70.060 and 1981 c 189 s 2 are each amended to read as follows:

The legislature finds:

(1) That it is necessary to establish a process and means for public and private sector cooperation in the development of a system of natural areas. Private and public landowners should be encouraged to participate in a program of natural area establishment which will benefit all citizens of the state;

(2) That there is a need for a systematic and accessible means for providing information concerning the locations of the state's natural heritage resources; and

(3) That the natural heritage advisory council should utilize a specific framework for natural heritage resource conservation decision making through a classification, inventory, priority establishment, acquisition, and management process known as the natural heritage program. Future natural areas should avoid unnecessary duplication of already protected natural heritage resources including those which may already be protected in existing publicly owned or privately dedicated lands such as nature preserves, natural areas, natural resources conservation areas, parks, or wilderness.

Sec. 3. RCW 79.70.080 and 1994 c 264 s 63 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 fish and wildlife, the state parks and recreation commission, 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;

(f) Recommend whether new areas proposed for protection be established as natural area preserves, natural resources conservation areas, a combination of both, or by some other protected status; and

(g) Review and comment on management plans proposed for individual natural area preserves.

(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 statewide 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.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 285

[Engrossed Substitute House Bill 2522]
CLEAN TECHNOLOGIES—PURCHASING

AN ACT Relating to the purchasing of clean technologies; amending RCW 43.19.1905, 43.19.570, 43.19.637, and 19.29A.090; adding a new section to chapter 39.35B RCW; and creating a new section.

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

Sec. 1. RCW 43.19.1905 and 1995 c 269 s 1402 are each amended to read as follows:

The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

- (1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;
- (2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;
- (3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;
- (4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;
- (5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;
- (6) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;
- (7) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;
- (8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;
- (9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, high gas mileage vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including investigations into all opportunities to aggregate the purchasing of clean technologies by state and local governments, and including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002).

Sec. 2. RCW 43.19.570 and 1989 c 113 s 1 are each amended to read as follows:

(1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles

under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles and other clean technologies.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost. All state agencies must investigate and determine whether or not they can make clean technologies more cost-effective by combining their purchasing power before completing a planned vehicle purchase.

Sec. 3. RCW 43.19.637 and 1991 c 199 s 213 are each amended to read as follows:

(1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

(6) The provisions for purchasing clean-fuel vehicles under subsections (1) and (2) of this section are intended as minimum levels. The department should seek to increase the purchasing levels of clean-fuel vehicles above the minimum. The department must also investigate all opportunities to aggregate their purchasing with local governments to determine whether or not they can lower their costs and make it cost-efficient to increase the percentage of clean-fuel or high gas mileage vehicles in both the state and local fleets.

(7) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70.120.210.

NEW SECTION. Sec. 4. A new section is added to chapter 39.35B RCW to read as follows:

(1) The department of general administration, in cooperation with public agencies, shall investigate opportunities to aggregate the purchase of clean technologies with other public agencies to determine whether or not combined purchasing can reduce the unit cost of clean technologies.

(2) State agencies that are retail electric customers shall investigate opportunities to aggregate the purchase of electricity produced from generation resources that are fueled by wind or solar energy for their facilities located within a single utility's service area, to determine whether or not combined purchasing can reduce the unit cost of those resources.

(3) No public agency is required under this section to purchase clean technologies at prohibitive costs.

(4)(a) "Electric utility" shall have the same meaning as provided under RCW 19.29A.010.

(b) "Clean technology" includes, but may not be limited to, alternative fueled hybrid-electric and fuel cell vehicles, and distributive power generation.

(c) "Distributive power generation" means the generation of electricity from an integrated or stand-alone power plant that generates electricity from wind energy, solar energy, or fuel cells.

(d) "Retail electric customer" shall have the same meaning as provided under RCW 19.29A.010.

(e) "Facility" means any building owned or leased by a public agency.

NEW SECTION. Sec. 5. In preparing the biennial energy report required under RCW 43.21F.045(2)(h) to be transmitted to the governor and the legislature

by December 1, 2002, the department of community, trade, and economic development must include the following information:

(1) The percentage of clean-fuel vehicles purchased in 2001 through a state contract pursuant to RCW 43.19.637; and

(2) The results of efforts by the department of general administration and other state agencies to aggregate purchasing of clean technologies.

Sec. 6. RCW 19.29A.090 and 2001 c 214 s 28 are each amended to read as follows:

(1) Beginning January 1, 2002, each electric utility must provide to its retail electricity customers a voluntary option to purchase qualified alternative energy resources in accordance with this section.

(2) Each electric utility must include with its retail electric customer's regular billing statements, at least quarterly, a voluntary option to purchase qualified alternative energy resources. The option may allow customers to purchase qualified alternative energy resources at fixed or variable rates and for fixed or variable periods of time, including but not limited to monthly, quarterly, or annual purchase agreements. A utility may provide qualified alternative energy resource options through either: (a) Resources it owns or contracts for; or (b) the purchase of credits issued by a clearinghouse or other system by which the utility may secure, for trade or other consideration, verifiable evidence that a second party has a qualified alternative energy resource and that the second party agrees to transfer such evidence exclusively to the benefit of the utility.

(3) For the purposes of this section, a "qualified alternative energy resource" means the electricity produced from generation facilities that are fueled by: (a) Wind; (b) solar energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas produced during the treatment of wastewater; (g) qualified hydropower; or (h) biomass energy based on solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

(4) For the purposes of this section, "qualified hydropower" means the energy produced either: (a) As a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or (b) by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

(5) The rates, terms, conditions, and customer notification of each utility's option or options offered in accordance with this section must be approved by the governing body of the consumer-owned utility or by the commission for investor-owned utilities. All costs and benefits associated with any option offered by an electric utility under this section must be allocated to the customers who voluntarily choose that option and may not be shifted to any customers who have not chosen such option. Utilities may pursue known, lawful aggregated purchasing

of qualified alternative energy resources with other utilities to the extent aggregated purchasing can reduce the unit cost of qualified alternative energy resources, and are encouraged to investigate opportunities to aggregate the purchase of alternative energy resources by their customers. Aggregated purchases by investor-owned utilities must comply with any applicable rules or policies adopted by the commission related to least-cost planning or the acquisition of renewable resources.

(6) Each consumer-owned utility must report annually to the department and each investor-owned utility must report annually to the commission beginning October 1, 2002, until October 1, 2012, describing the option or options it is offering its customers under the requirements of this section, the rate of customer participation, the amount of qualified alternative energy resources purchased by customers, ~~((and))~~ the amount of utility investments in qualified alternative energy resources, and the results of pursuing aggregated purchasing opportunities. The department and the commission together shall report annually to the legislature, beginning December 1, 2002, until December 1, 2012, with the results of the utility reports.

Passed the House March 12, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 286

[Engrossed Substitute House Bill 2376]

DERELICT VESSELS

AN ACT Relating to abandoned and derelict vessels; amending RCW 88.02.030, 88.02.050, 88.02.040, 79A.65.010, 79A.65.020, 79A.65.030, and 53.08.320; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.32 RCW; adding a new section to chapter 53.08 RCW; adding a new section to chapter 77.12 RCW; adding a new chapter to Title 79 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 there has been an increase in the number of derelict and abandoned vessels that are either grounded or anchored upon publicly or privately owned submerged lands. These vessels are public nuisances and safety hazards as they often pose hazards to navigation, detract from the aesthetics of Washington's waterways, and threaten the environment with the potential release of hazardous materials. The legislature further finds that the costs associated with the disposal of derelict and abandoned vessels are substantial, and that in many cases there is no way to track down the current vessel owners in order to seek compensation. As a result, the costs associated with the removal of derelict vessels becomes a burden on public entities and the taxing public.

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

(1) "Abandoned vessel" means the vessel's owner is not known or cannot be located, or if the vessel's owner is known and located but is unwilling to take control of the vessel, and the vessel has been left, moored, or anchored in the same area without the express consent, or contrary to the rules, of the owner, manager, or lessee of the aquatic lands below or on which the vessel is located for either a period of more than thirty consecutive days or for more than a total of ninety days in any three hundred sixty-five day period. For the purposes of this subsection (1) only, "in the same area" means within a radius of five miles of any location where the vessel was previously moored or anchored on aquatic lands.

(2) "Aquatic lands" means all tidelands, shorelands, harbor areas, and the beds of navigable waters, including lands owned by the state and lands owned by other public or private entities.

(3) "Authorized public entity" includes any of the following: The department of natural resources; the department of fish and wildlife; the parks and recreation commission; a metropolitan park district; a port district; and any city, town, or county with ownership, management, or jurisdiction over the aquatic lands where an abandoned or derelict vessel is located.

(4) "Department" means the department of natural resources.

(5) "Derelict vessel" means the vessel's owner is known and can be located, and exerts control of a vessel that:

(a) Has been moored, anchored, or otherwise left in the waters of the state or on public property contrary to RCW 79.01.760 or rules adopted by an authorized public entity;

(b) Has been left on private property without authorization of the owner; or

(c) Has been left for a period of seven consecutive days, and:

(i) Is sunk or in danger of sinking;

(ii) Is obstructing a waterway; or

(iii) Is endangering life or property.

(6) "Owner" means any natural person, firm, partnership, corporation, association, government entity, or organization that has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest.

(7) "Vessel" has the same meaning as defined in RCW 53.08.310.

NEW SECTION. Sec. 3. This chapter is not intended to limit or constrain the ability and authority of the authorized public entities to enact and enforce ordinances or other regulations relating to derelict and abandoned vessels, or to take any actions authorized by federal or state law in responding to derelict or abandoned vessels. This chapter is also not intended to be the sole remedy available to authorized public entities against the owners of derelict and abandoned vessels.

NEW SECTION. **Sec. 4.** (1) An authorized public entity has the authority, subject to the processes and limitations of this chapter, to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above aquatic lands within the jurisdiction of the authorized public entity. A vessel disposal must be done in an environmentally sound manner and in accordance with all federal, state, and local laws, including the state solid waste disposal provisions provided for in chapter 70.95 RCW. Scuttling or sinking of a vessel is only permissible after obtaining the express permission of the owner or owners of the aquatic lands below where the scuttling or sinking would occur, and obtaining all necessary state and federal permits or licenses.

(2) The primary responsibility to remove a derelict or abandoned vessel belongs to the owner, operator, or lessee of the moorage facility or the aquatic lands where the vessel is located. If the authorized public entity with the primary responsibility is unwilling or unable to exercise the authority granted by this section, it may request the department to assume the authorized public entity's authority for a particular vessel. The department may at its discretion assume the authorized public entity's authority for a particular vessel after being requested to do so. For vessels not at a moorage facility, an authorized public entity with jurisdiction over the aquatic lands where the vessel is located may, at its discretion, request to assume primary responsibility for that particular vessel from the owner of the aquatic lands where the vessel is located.

(3) The authority granted by this chapter is permissive, and no authorized public entity has a duty to exercise the authority. No liability attaches to an authorized public entity that chooses not to exercise this authority.

NEW SECTION. **Sec. 5.** (1) Prior to exercising the authority granted in section 4 of this act, the authorized public entity must first obtain custody of the vessel. To do so, the authorized public entity must:

(a) Mail notice of its intent to obtain custody, at least twenty days prior to taking custody, to the last known address of the previous owner to register the vessel in any state or with the federal government and to any lien holders or secured interests on record. A notice need not be sent to the purported owner or any other person whose interest in the vessel is not recorded with a state or federal agency;

(b) Post notice of its intent clearly on the vessel for thirty days and publish its intent at least once, more than ten days but less than twenty days prior to taking custody, in a newspaper of general circulation for the county in which the vessel is located; and

(c) Post notice of its intent on the department's internet web site on a page specifically designated for such notices. If the authorized public entity is not the department, the department must facilitate the internet posting.

(2) All notices sent, posted, or published in accordance with this section must, at a minimum, explain the intent of the authorized public entity to take custody of the vessel, the rights of the authorized public entity after taking custody of the

vessel as provided in section 4 of this act, the procedures the owner must follow in order to avoid custody being taken by the authorized public entity, the procedures the owner must follow in order to reclaim possession after custody is taken by the authorized public entity, and the financial liabilities that the owner may incur as provided for in section 7 of this act.

(3) If a vessel is in immediate danger of sinking, breaking up, or blocking navigational channels, and the owner of the vessel cannot be located or is unwilling to assume responsibility for the vessel, an authorized public entity may tow, beach, or otherwise take temporary possession of the vessel. Before taking temporary possession of the vessel, the authorized public entity must make reasonable attempts to consult with the department and the United States coast guard to ensure that other remedies are not available. The basis for taking temporary possession of the vessel must be set out in writing by the authorized public entity within seven days of taking action and be submitted to the owner, if known, as soon thereafter as is reasonable. Immediately after taking possession of the vessel, the authorized public entity must initiate the notice provisions in subsection (1) of this section. The authorized public entity must complete the notice requirements of subsection (1) of this section before using or disposing of the vessel as authorized in section 6 of this act.

NEW SECTION. Sec. 6. (1) After taking custody of a vessel, the authorized public entity may use or dispose of the vessel in any appropriate and environmentally sound manner without further notice to any owners, but must give preference to uses that derive some monetary benefit from the vessel, either in whole or in scrap. If no value can be derived from the vessel, the authorized public entity must give preference to the least costly, environmentally sound, reasonable disposal option. Any disposal operations must be consistent with the state solid waste disposal provisions provided for in chapter 70.95 RCW.

(2) If the authorized public entity chooses to offer the vessel at a public auction, either a minimum bid may be set or a letter of credit may be required, or both, to discourage future reabandonment of the vessel.

(3) Proceeds derived from the sale of the vessel must first be applied to any administrative costs that are incurred by the authorized public entity during the notification procedures set forth in section 5 of this act, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel. If the proceeds derived from the vessel exceed all administrative costs, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel, the remaining moneys must be applied to satisfying any liens registered against the vessel.

(4) Any value derived from a vessel greater than all liens and costs incurred reverts to the derelict vessel removal account established in section 11 of this act.

NEW SECTION. Sec. 7. (1) The owner of an abandoned or derelict vessel is responsible for reimbursing an authorized public entity for all reasonable and auditable costs associated with the removal or disposal of the owner's vessel under

this chapter. These costs include, but are not limited to, costs incurred exercising the authority granted in section 4 of this act, all administrative costs incurred by the authorized public entity during the procedure set forth in section 5 of this act, removal and disposal costs, and costs associated with environmental damages directly or indirectly caused by the vessel.

(2) Reimbursement for costs may be sought from an owner who is identified subsequent to the vessel's removal and disposal.

(3) If the full amount of all costs due to the authorized public entity under this chapter is not paid to the authorized public entity within thirty days after first notifying the responsible parties of the amounts owed, the authorized public entity or the department may bring an action in any court of competent jurisdiction to recover the costs, plus reasonable attorneys' fees and costs incurred by the authorized public entity.

NEW SECTION. Sec. 8. An authorized public entity may enter into a contract with a private company or individual to carry out the authority granted in this chapter.

NEW SECTION. Sec. 9. The rights granted by this chapter are in addition to any other legal rights an authorized public entity may have to obtain title to, remove, recover, sell, or dispose of an abandoned or derelict vessel, and in no way does this chapter alter those rights, or affect the priority of other liens on a vessel.

NEW SECTION. Sec. 10. A person seeking to redeem a vessel that is in the custody of an authorized public entity may commence a lawsuit to contest the authorized public entity's decision to take custody of the vessel or to contest the amount of reimbursement owed. The lawsuit must be commenced in the superior court of the county in which the vessel existed when custody was taken by the authorized public entity. The lawsuit must be commenced within twenty days of the date the authorized public entity took custody of the vessel under section 5 of this act, or the right to a hearing is deemed waived and the vessel's owner is liable for any costs owed the authorized public entity. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

NEW SECTION. Sec. 11. (1) The derelict vessel removal account is created in the state treasury. All receipts from sections 6 and 7 of this act and those moneys specified in RCW 88.02.030 and 88.02.050 must be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account shall be used by the department to reimburse authorized public entities for seventy-five percent of the total reasonable and auditable administrative, removal, disposal, and environmental damage costs of abandoned or derelict vessels when the previous owner is either unknown after a reasonable search effort or insolvent. During the 2001-2003 biennium, up to forty percent of the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter. In each subsequent biennium, up to twenty percent of

the expenditures from the account may be used for administrative expenses of the department of licensing and department of natural resources in implementing this chapter.

(2) If the balance of the account reaches one million dollars as of March 1st of any year, the department must notify the department of licensing and the collection of any fees associated with this account must be suspended for the following fiscal year.

(3) Priority for use of this account is for the removal of derelict and abandoned vessels that are in danger of sinking, breaking up, or blocking navigation channels, or that present environmental risks such as leaking fuel or other hazardous substances. The department must develop criteria, in the form of informal guidelines, to prioritize removal projects associated with this chapter, but may not consider whether the applicant is a state or local entity when prioritizing. The guidelines must also include guidance to the authorized public entities as to what removal activities and associated costs are reasonable and eligible for reimbursement.

(4) The department must keep all authorized public entities apprized of the balance of the derelict vessel removal account and the funds available for reimbursement. The guidelines developed by the department must also be made available to the other authorized public entities. This subsection (4) must be satisfied by utilizing the least costly method, including maintaining the information on the department's internet web site, or any other cost-effective method.

(5) An authorized public entity may contribute its twenty-five percent of costs that are not eligible for reimbursement by using in-kind services, including the use of existing staff, equipment, and volunteers.

(6) This chapter does not guarantee reimbursement for an authorized public entity. Authorized public entities seeking certainty in reimbursement prior to taking action under this chapter may first notify the department of their proposed action and the estimated total costs. Upon notification by an authorized public entity, the department must make the authorized public entity aware of the status of the fund and the likelihood of reimbursement being available. The department may offer technical assistance and assure reimbursement for up to two years following the removal action if an assurance is appropriate given the balance of the fund and the details of the proposed action.

Sec. 12. RCW 88.02.030 and 1998 c 198 s 1 are each amended to read as follows:

Vessel registration is required under this chapter except for the following:

(1) Military or public vessels of the United States, except recreational-type public vessels;

(2) Vessels owned by a state or subdivision thereof, used principally for governmental purposes and clearly identifiable as such;

(3) Vessels either (a) registered or numbered under the laws of a country other than the United States; or (b) having a valid United States customs service cruising

license issued pursuant to 19 C.F.R. Sec. 4.94. On or before the sixty-first day of use in the state, any vessel in the state under this subsection shall obtain an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. At the time of any issuance of an identification document, a ~~((twenty-five))~~ thirty dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Five dollars from each such transaction must be deposited in the derelict vessel removal account created in section 11 of this act. Any moneys remaining from the fee after the payment of costs and the deposit to the derelict vessel removal account shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the ~~((twenty-five))~~ thirty dollar fee;

(4) Vessels that have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. However, a vessel that is validly registered in another state but that is removed to this state for principal use is subject to registration under this chapter. The issuing authority for this state shall recognize the validity of the numbers previously issued for a period of sixty days after arrival in this state;

(5) Vessels owned by a nonresident if the vessel is located upon the waters of this state exclusively for repairs, alteration, or reconstruction, or any testing related to the repair, alteration, or reconstruction conducted in this state if an employee of the repair, alteration, or construction facility is on board the vessel during any testing(~~(-PROVIDED, That))~~. However, any vessel owned by a nonresident is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing for a period longer than sixty days, that the nonresident shall file an affidavit with the department of revenue verifying the vessel is located upon the waters of this state for repair, alteration, reconstruction, or testing and shall continue to file such affidavit every sixty days thereafter, while the vessel is located upon the waters of this state exclusively for repairs, alteration, reconstruction, or testing;

(6) Vessels equipped with propulsion machinery of less than ten horsepower that:

(a) Are owned by the owner of a vessel for which a valid vessel number has been issued;

(b) Display the number of that numbered vessel followed by the suffix "1" in the manner prescribed by the department; and

(c) Are used as a tender for direct transportation between that vessel and the shore and for no other purpose;

(7) Vessels under sixteen feet in overall length which have no propulsion machinery of any type or which are not used on waters subject to the jurisdiction of the United States or on the high seas beyond the territorial seas for vessels

owned in the United States and are powered by propulsion machinery of ten or less horsepower;

(8) Vessels with no propulsion machinery of any type for which the primary mode of propulsion is human power;

(9) Vessels primarily engaged in commerce which have or are required to have a valid marine document as a vessel of the United States. Commercial vessels which the department of revenue determines have the external appearance of vessels which would otherwise be required to register under this chapter, must display decals issued annually by the department of revenue that indicate the vessel's exempt status;

(10) Vessels primarily engaged in commerce which are owned by a resident of a country other than the United States; and

(11) On and after January 1, 1998, vessels owned by a nonresident individual brought into the state for his or her use or enjoyment while temporarily within the state for not more than six months in any continuous twelve-month period, unless the vessel is used in conducting a nontransitory business activity within the state. However, the vessel must have been issued a valid number under federal law or by an approved issuing authority of the state of principal operation. On or before the sixty-first day of use in the state, any vessel temporarily in the state under this subsection shall obtain an identification document from the department of licensing, its agents, or subagents indicating when the vessel first came into the state. An identification document shall be valid for a period of two months. At the time of any issuance of an identification document, a twenty-five dollar identification document fee shall be paid by the vessel owner to the department of licensing for the cost of providing the identification document by the department of licensing. Any moneys remaining from the fee after payment of costs shall be allocated to counties by the state treasurer for approved boating safety programs under RCW 88.02.045. The department of licensing shall adopt rules to implement its duties under this subsection, including issuing and displaying the identification document and collecting the twenty-five dollar fee.

Sec. 13. RCW 88.02.050 and 1993 c 244 s 38 are each amended to read as follows:

Application for a vessel registration shall be made to the department or its authorized agent in the manner and upon forms prescribed by the department. The application shall state the name and address of each owner of the vessel and such other information as may be required by the department, shall be signed by at least one owner, and shall be accompanied by a vessel registration fee of ten dollars and fifty cents per year and the excise tax imposed under chapter 82.49 RCW. In addition, two additional dollars must be collected annually from every vessel registration application. These moneys must be deposited into the derelict vessel removal account established in section 11 of this act. If the department of natural resources indicates that the balance of the derelict vessel removal account reaches one million dollars as of March 1st of any year, the collection of the two-dollar fee

must be suspended for the following fiscal year. Any fees required for licensing agents under RCW 46.01.140 shall be in addition to the ten dollar and fifty cent annual registration fee and the two-dollar derelict vessel fee.

Upon receipt of the application and the registration fee, the department shall assign a registration number and issue a decal for each vessel. The registration number and decal shall be issued and affixed to the vessel in a manner prescribed by the department consistent with the standard numbering system for vessels set forth in volume 33, part 174, of the code of federal regulations. A valid decal affixed as prescribed shall indicate compliance with the annual registration requirements of this chapter.

The vessel registrations and decals are valid for a period of one year, except that the director of licensing may extend or diminish vessel registration periods, and the decals therefor, for the purpose of staggered renewal periods. For registration periods of more or less than one year, the department may collect prorated annual registration fees and excise taxes based upon the number of months in the registration period. Vessel registrations are renewable every year in a manner prescribed by the department upon payment of the vessel registration fee ~~((and)),~~ excise tax, and the derelict vessel fee. Upon renewing a vessel registration, the department shall issue a new decal to be affixed as prescribed by the department.

When the department issues either a notice to renew a vessel registration or a decal for a new or renewed vessel registration, it shall also provide information on the location of marine oil recycling tanks and sewage holding tank pumping stations. This information will be provided to the department by the state parks and recreation commission in a form ready for distribution. The form will be developed and prepared by the state parks and recreation commission with the cooperation of the department of ecology. The department, the state parks and recreation commission, and the department of ecology shall enter into a memorandum of agreement to implement this process.

A person acquiring a vessel from a dealer or a vessel already validly registered under this chapter shall, within fifteen days of the acquisition or purchase of the vessel, apply to the department or its authorized agent for transfer of the vessel registration, and the application shall be accompanied by a transfer fee of one dollar.

Sec. 14. RCW 88.02.040 and 1989 c 393 s 12 are each amended to read as follows:

The department shall provide for the issuance of vessel registrations and may appoint agents for collecting fees and issuing registration numbers and decals. General fees for vessel registrations collected by the director shall be deposited in the general fund: PROVIDED, That any amount above one million one hundred thousand dollars per fiscal year shall be allocated to counties by the state treasurer for boating safety/education and law enforcement programs and the fee collected specifically for the removal and disposal of derelict vessels must be deposited in

the derelict vessel removal account created in section 11 of this act. Eligibility for ~~((such))~~ boating safety/education and law enforcement program allocations shall be contingent upon approval of the local boating safety program by the state parks and recreation commission. Fund allocation shall be based on the numbers of registered vessels by county of moorage. Each benefitting county shall be responsible for equitable distribution of such allocation to other jurisdictions with approved boating safety programs within said county. Any fees not allocated to counties due to the absence of an approved boating safety program, shall be allocated to the commission for awards to local governments to offset law enforcement and boating safety impacts of boaters recreating in jurisdictions other than where registered.

NEW SECTION. Sec. 15. A new section is added to chapter 35.21 RCW to read as follows:

Any city or town has the authority, subject to the processes and limitation outlined in chapter 79.— RCW (sections 1 through 11 of this act), to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the city or town.

NEW SECTION. Sec. 16. A new section is added to chapter 35A.21 RCW to read as follows:

A code city has the authority, subject to the processes and limitation outlined in chapter 79.— RCW (sections 1 through 11 of this act), to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the code city.

NEW SECTION. Sec. 17. A new section is added to chapter 36.32 RCW to read as follows:

A county has the authority, subject to the processes and limitation outlined in chapter 79.— RCW (sections 1 through 11 of this act), to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the county.

NEW SECTION. Sec. 18. A new section is added to chapter 53.08 RCW to read as follows:

A port district has the authority, subject to the processes and limitation outlined in chapter 79.— RCW (sections 1 through 11 of this act), to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the port district.

NEW SECTION. Sec. 19. A new section is added to chapter 77.12 RCW to read as follows:

The director has the authority, subject to the processes and limitation outlined in chapter 79.— RCW (sections 1 through 11 of this act), to store, strip, use, auction, sell, salvage, scrap, or dispose of an abandoned or derelict vessel found on or above publicly or privately owned aquatic lands within the jurisdiction of the department.

Sec. 20. RCW 79A.65.010 and 2000 c 11 s 115 are each amended to read as follows:

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

(1) "Charges" means charges of the commission for moorage and storage, and all other charges related to the vessel and owing to or that become owing to the commission, including but not limited to costs of securing, disposing, or removing vessels, damages to any commission facility, and any costs of sale and related legal expenses for implementing RCW 79A.65.020 and 79A.65.030.

(2) "Commission" means the Washington state parks and recreation commission.

(3) "Commission facility" means any (~~property or~~) moorage facility, as that term is defined in RCW 53.08.310, owned, leased, operated, managed, or otherwise controlled by the commission or by a person pursuant to a contract with the commission.

(4) "Owner" means a person who has a lawful right to possession of a vessel by purchase, exchange, gift, lease, inheritance, or legal action whether or not the vessel is subject to a security interest, and shall not include the holder of a bona fide security interest.

(5) "Person" means any natural person, firm, partnership, corporation, association, organization, or any other entity.

(6)(a) "Registered owner" means any person that is either: (i) Shown as the owner in a vessel certificate of documentation issued by the secretary of the United States department of transportation under 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a vessel for which a certificate of title has been issued under chapter 88.02 RCW; or (iii) the owner of a vessel registered under the vessel registration laws of another state under which laws the commission can readily identify the ownership of vessels registered with that state.

(b) "Registered owner" also includes: (i) Any holder of a security interest or lien recorded with the United States department of transportation with respect to a vessel on which a certificate of documentation has been issued; (ii) any holder of a security interest identified in a certificate of title for a vessel registered under chapter 88.02 RCW; or (iii) any holder of a security interest in a vessel where the holder is identified in vessel registration information of a state with vessel registration laws that fall within (a)(iii) of this subsection and under which laws the commission can readily determine the identity of the holder.

(c) "Registered owner" does not include any vessel owner or holder of a lien or security interest in a vessel if the vessel does not have visible information

affixed to it (such as name and hailing port or registration numbers) that will enable the commission to obtain ownership information for the vessel without incurring unreasonable expense.

(7) "Registered vessel" means a vessel having a registered owner.

(8) "Secured vessel" means any vessel that has been secured by the commission that remains in the commission's possession and control.

(9) "Unauthorized vessel" means a vessel using a commission facility of any type whose owner has not paid the required moorage fees or has left the vessel beyond the posted time limits, or a vessel otherwise present without permission of the commission.

(10) "Vessel" means every watercraft or part thereof constructed, used, or capable of being used as a means of transportation on the water. It includes any equipment or personal property on the vessel that is used or capable of being used for the operation, navigation, or maintenance of the vessel.

Sec. 21. RCW 79A.65.020 and 1994 c 51 s 2 are each amended to read as follows:

(1) The commission may take reasonable measures, including but not limited to the use of anchors, chains, ropes, and locks, or removal from the water, to secure unauthorized vessels located at or on a commission facility so that the unauthorized vessels are in the possession and control of the commission. At least ten days before securing any unauthorized registered vessel, the commission shall send notification by registered mail to the last registered owner or registered owners of the vessel at their last known address or addresses.

(2) The commission may take reasonable measures, including but not limited to the use of anchors, chains, ropes, locks, or removal from the water, to secure any vessel if the vessel, in the opinion of the commission, is a nuisance, is in danger of sinking or creating other damage to a commission facility, or is otherwise a threat to the health, safety, or welfare of the public or environment at a commission facility. The costs of any such procedure shall be paid by the vessel's owner.

(3) At the time of securing any vessel under subsection (1) or (2) of this section, the commission shall attach to the vessel a readily visible notice or, when practicable, shall post such notice in a conspicuous location at the commission facility in the event the vessel is removed from the premises. The notice shall be of a reasonable size and shall contain the following information:

(a) The date and time the notice was attached or posted;

(b) A statement that the vessel has been secured by the commission and that if the commission's charges, if any, are not paid and the vessel is not removed by (the thirty-fifth consecutive day following the date of attachment or posting of the notice), the vessel will be considered abandoned and will be sold at public auction to satisfy the charges;

(c) The address and telephone number where additional information may be obtained concerning the securing of the vessel and conditions for its release; and

(d) A description of the owner's or secured party's rights under this chapter.

(4) With respect to registered vessels: Within five days of the date that notice is attached or posted under subsection (3) of this section, the commission shall send such notice, by registered mail, to each registered owner.

(5) If a vessel is secured under subsection (1) or (2) of this section, the owner, or any person with a legal right to possess the vessel, may claim the vessel by:

(a) Making arrangements satisfactory to the commission for the immediate removal of the vessel from the commission's control or for authorized storage or moorage; and

(b) Making payment to the commission of all reasonable charges incurred by the commission in securing the vessel under subsections (1) and (2) of this section and of all moorage fees owed to the commission.

(6) A vessel is considered abandoned if, within the thirty-five day period following the date of attachment or posting of notice in subsection (3) of this section, the vessel has not been claimed under subsection (5) of this section.

(7) If the owner or owners of a vessel are unable to reimburse the commission for all reasonable charges under subsections (1) and (2) of this section within a reasonable time, the commission may seek reimbursement of seventy-five percent of all reasonable and auditable costs from the derelict vessel removal account established in section 11 of this act.

Sec. 22. RCW 79A.65.030 and 2000 c 11 s 116 are each amended to read as follows:

(1) The commission may provide for the public sale of vessels considered abandoned under RCW 79A.65.020. At such sales, the vessels shall be sold for cash to the highest and best bidder. The commission may establish either a minimum bid or require a letter of credit, or both, to discourage the future reabandonment of the vessel.

(2) Before a vessel is sold, the commission shall make a reasonable effort to provide notice of sale, at least twenty days before the day of the sale, to each registered owner of a registered vessel and each owner of an unregistered vessel. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of charges then owing with respect to the vessel, and a summary of the rights and procedures under this chapter. A notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the commission facility is located. This notice shall include: (a) If known, the name of the vessel and the last owner and the owner's address; and (b) a reasonable description of the vessel. The commission may bid all or part of its charges at the sale and may become a purchaser at the sale.

(3) Before a vessel is sold, any person seeking to redeem a secured vessel may commence a lawsuit in the superior court for the county in which the vessel was secured to contest the commission's decision to secure the vessel or the amount of charges owing. This lawsuit shall be commenced within fifteen days of the date the notification was posted under RCW 79A.65.020(3), or the right to a hearing is

deemed waived and the owner is liable for any charges owing the commission. In the event of litigation, the prevailing party is entitled to reasonable attorneys' fees and costs.

(4) The proceeds of a sale under this section shall be applied first to the payment of the amount of the reasonable charges incurred by the commission and moorage fees owed to the commission, then to the owner or to satisfy any liens of record or security interests of record on the vessel in the order of their priority. If an owner cannot in the exercise of due diligence be located by the commission within one year of the date of the sale, any excess funds from the sale, following the satisfaction of any bona fide security interest, shall revert to the ~~((department of revenue under chapter 63.29 RCW))~~ derelict vessel removal account established in section 11 of this act. If the sale is for a sum less than the applicable charges, the commission is entitled to assert a claim for the deficiency against the vessel owner. Nothing in this section prevents any lien holder or secured party from asserting a claim for any deficiency owed the lien holder or secured party.

(5) If no one purchases the vessel at a sale, the commission may proceed to properly dispose of the vessel in any way the commission considers appropriate, including, but not limited to, destruction of the vessel or by negotiated sale. The commission may assert a claim against the owner for any charges incurred thereby. If the vessel, or any part of the vessel, or any rights to the vessel, are sold under this subsection, any proceeds from the sale shall be distributed in the manner provided in subsection (4) of this section.

Sec. 23. RCW 53.08.320 and 1986 c 260 s 2 are each amended to read as follows:

A moorage facility operator may adopt all ~~((regulations))~~ rules necessary for rental and use of moorage facilities and for the expeditious collection of port charges. The ~~((regulations))~~ rules may also establish procedures for the enforcement of these ~~((regulations))~~ rules by port district, city, county, metropolitan park district or town personnel. The ~~((regulations))~~ rules shall include the following:

(1) Procedures authorizing moorage facility personnel to take reasonable measures, including the use of chains, ropes, and locks, or removal from the water, to secure vessels within the moorage facility so that the vessels are in the possession and control of the moorage facility operator and cannot be removed from the moorage facility. These procedures may be used if an owner mooring or storing a vessel at the moorage facility fails, after being notified that charges are owing and of the owner's right to commence legal proceedings to contest that such charges are owing, to pay the port charges owed or to commence legal proceedings. Notification shall be by registered mail to the owner at his or her last known address. In the case of a transient vessel, or where no address was furnished by the owner, the moorage facility operator need not give such notice prior to securing the vessel. At the time of securing the vessel, an authorized

moorage facility employee shall attach to the vessel a readily visible notice. The notice shall be of a reasonable size and shall contain the following information:

- (a) The date and time the notice was attached;
- (b) A statement that if the account is not paid in full within ninety days from the time the notice is attached, the vessel may be sold at public auction to satisfy the port charges; and
- (c) The address and telephone number where additional information may be obtained concerning release of the vessel.

After a vessel is secured, the operator shall make a reasonable effort to notify the owner by registered mail in order to give the owner the information contained in the notice.

(2) Procedures authorizing moorage facility personnel at their discretion to move moored vessels ashore for storage within properties under the operator's control or for storage with private persons under their control as bailees of the moorage facility, if the vessel is, in the opinion of port personnel a nuisance, if the vessel is in danger of sinking or creating other damage, or is owing port charges. Costs of any such procedure shall be paid by the vessel's owner. If the owner is not known, or unable to reimburse the moorage facility operator for the costs of these procedures, the mooring facility operators may seek reimbursement of seventy-five percent of all reasonable and auditable costs from the derelict vessel removal account established in section 11 of this act.

(3) If a vessel is secured under subsection (1) of this section or moved ashore under subsection (2) of this section, the owner who is obligated to the moorage facility operator for port charges may regain possession of the vessel by:

(a) Making arrangements satisfactory with the moorage facility operator for the immediate removal of the vessel from the moorage facility or for authorized moorage; and

(b) Making payment to the moorage facility operator of all port charges, or by posting with the moorage facility operator a sufficient cash bond or other acceptable security, to be held in trust by the moorage facility operator pending written agreement of the parties with respect to payment by the vessel owner of the amount owing, or pending resolution of the matter of the charges in a civil action in a court of competent jurisdiction. After entry of judgment, including any appeals, in a court of competent jurisdiction, or after the parties reach agreement with respect to payment, the trust shall terminate and the moorage facility operator shall receive so much of the bond or other security as is agreed, or as is necessary to satisfy any judgment, costs, and interest as may be awarded to the moorage facility operator. The balance shall be refunded immediately to the owner at his or her last known address.

(4) If a vessel has been secured by the moorage facility operator under subsection (1) of this section and is not released to the owner under the bonding provisions of this section within ninety days after notifying or attempting to notify

the owner under subsection (1) of this section, the vessel shall be conclusively presumed to have been abandoned by the owner.

(5) If a vessel moored or stored at a moorage facility is abandoned, the moorage facility operator may, by resolution of its legislative authority, authorize the public sale of the vessel by authorized personnel to the highest and best bidder for cash as ~~((follows:))~~ prescribed by this subsection (5). Either a minimum bid may be established or a letter of credit may be required, or both, to discourage the future reabandonment of the vessel.

(a) Before the vessel is sold, the owner of the vessel shall be given at least twenty days' notice of the sale in the manner set forth in subsection (1) of this section if the name and address of the owner is known. The notice shall contain the time and place of the sale, a reasonable description of the vessel to be sold, and the amount of port charges owed with respect to the vessel. The notice of sale shall be published at least once, more than ten but not more than twenty days before the sale, in a newspaper of general circulation in the county in which the moorage facility is located. Such notice shall include the name of the vessel, if any, the last known owner and address, and a reasonable description of the vessel to be sold. The moorage facility operator may bid all or part of its port charges at the sale and may become a purchaser at the sale~~((:))~~.

(b) Before the vessel is sold, any person seeking to redeem an impounded vessel under this section may commence a lawsuit in the superior court for the county in which the vessel was impounded to contest the validity of the impoundment or the amount of the port charges owing. Such lawsuit must be commenced within ten days of the date the notification was provided pursuant to subsection (1) of this section, or the right to a hearing shall be deemed waived and the owner shall be liable for any port charges owing the moorage facility operator. In the event of litigation, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

(c) The proceeds of a sale under this section shall first be applied to the payment of port charges. The balance, if any, shall be paid to the owner. If the owner cannot in the exercise of due diligence be located by the moorage facility operator within one year of the date of the sale, the excess funds from the sale shall revert to the ~~((department of revenue pursuant to chapter 63-29 RCW))~~ derelict vessel removal account established in section 11 of this act. If the sale is for a sum less than the applicable port charges, the moorage facility operator is entitled to assert a claim for a deficiency.

(d) In the event no one purchases the vessel at a sale, or a vessel is not removed from the premises or other arrangements are not made within ten days of sale, title to the vessel will revert to the moorage facility operator.

(6) The ~~((regulations))~~ rules authorized under this section shall be enforceable only if the moorage facility has had its tariff containing such ~~((regulations))~~ rules conspicuously posted at its moorage facility at all times.

NEW SECTION. **Sec. 24.** Sections 1 through 11 of this act constitute a new chapter in Title 79 RCW.

NEW SECTION. **Sec. 25.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 26.** This act takes effect January 1, 2003.

Passed the House March 12, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 287

[Engrossed Substitute Senate Bill 6400]
BIODIVERSITY CONSERVATION

AN ACT Relating to biodiversity conservation; and creating new sections.

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

NEW SECTION. **Sec. 1.** The legislature finds that the state of Washington possesses a diversity of plants and animals in a diverse array of ecologically distinct regions. This biological diversity and its role in forming the diverse landscapes of the state are an important part of the high quality of life shared by all of the state's citizens and its visitors. By better understanding the variety and status of living organisms and the communities and ecosystems in which they occur, conservation efforts can be more effective in ensuring that this wealth of biological diversity is enjoyed by current and future generations.

The legislature further finds that extensive scientific work has been completed by both public and private entities to map the state's ecoregions and address ecoregional planning issues, by academic institutions, by state agencies such as the departments of natural resources and fish and wildlife, and by nongovernmental organizations such as the nature conservancy. However, these existing information sources are not complete, and this information may not be sufficiently coordinated or accessible and useful to the public or policymakers. Similarly, there is no single entity responsible for development and implementation of a coordinated state strategy to conserve remaining functioning ecosystems and restore habitats needed to maintain Washington's biodiversity. There should be a comprehensive review to identify the state's needs for biodiversity data and conservation, and to coordinate development, dissemination, and use of existing information.

There is also a need to strengthen the state's nonregulatory approaches to biodiversity conservation, including incentives for voluntary conservation efforts by private landowners. Incentives shall be a major element of the state's overall biodiversity conservation strategy.

The legislature further finds that resource management on a single-species or single-resource basis has proven to be costly, acrimonious, and ultimately ineffective at either preserving the state's biodiversity or allowing reasonable economic development.

Therefore, the purpose of this act is to create a temporary committee to develop recommendations to the governor and the legislature to establish the framework for the development and implementation of a statewide biodiversity conservation strategy, to replace existing single-species or single-resource protection programs.

NEW SECTION. **Sec. 2.** (1) The interagency committee for outdoor recreation is authorized to grant up to forty-five thousand dollars, on a competitive basis, to conduct the review of biodiversity programs as described in this section.

(2) The successful grantee must convene and facilitate a biodiversity conservation committee that will review existing biodiversity mapping and research programs in Washington conducted by state and federal agencies, nongovernmental organizations, and other entities, as well as reviewing programs and projects in other states.

(3) The biodiversity conservation committee must develop recommendations for a state biodiversity strategy that includes:

(a) Creation and composition of a standing public/private council to oversee design, development, and implementation of the strategy;

(b) Identification of a lead agency to support and facilitate development and implementation of a state biodiversity conservation plan;

(c) Methods to improve state agency and nongovernmental organization coordination and cooperation;

(d) Consistent definitions of the state's ecoregions and an integrated system of data management and mapping of the state's biodiversity;

(e) A review of Oregon's forest sustainability project and incorporation of key processes and criteria that are applicable in Washington;

(f) The state role for housing and administering biodiversity data and making the data accessible to local governments and others;

(g) A public education and outreach component that includes the production of a visual overview of Washington's ecoregions;

(h) Methods to ensure continuing stakeholder involvement;

(i) Methods to provide technical assistance to support state and local government land management;

(j) Identification of the time frames and funding needed to implement the strategy;

(k) Identification and development of nonregulatory methods to preserve biodiversity, including incentives to conserve land with important biodiversity values. These methods shall focus on approaches such as landowner incentives and acquisition of conservation easements from willing landowners;

(l) Recognition of the forests and fish program and other public-private efforts to identify and protect important fish and wildlife habitat;

(m) Development of consistent, workable definitions for key terms that are currently undefined in this act, including the terms "biodiversity" and "ecosystem"; and

(n) Review state policies and legal mechanisms that may affect biodiversity.

(4) The purpose of the state biodiversity strategy is to develop and suggest implementation recommendations for an ongoing biodiversity conservation strategy to maintain Washington's biodiversity in perpetuity, within the context of human activities on the landscape, to prevent additional species from being listed as endangered or threatened, and to create a more predictable environment in which to conduct economic activities.

(5) In carrying out the duties assigned in this section, the biodiversity conservation committee must recognize existing conservation commitments, including approved habitat conservation plans and other similar methods initiated by the legislature or a regulatory board, and focus on addressing conservation needs that have not already been addressed.

(6) The successful grantee must invite representatives of the following groups to participate on the biodiversity conservation committee:

(a) State agencies, including the departments of fish and wildlife, natural resources, and ecology, the Puget Sound action team, and the state salmon recovery office;

(b) Federal land management and natural resource agencies;

(c) Local governments;

(d) Tribes;

(e) Property owners, including forestry and agriculture;

(f) Business, including land development;

(g) Academia and research institutions; and

(h) Conservation nongovernmental organizations.

(7) The biodiversity conservation committee must choose a chair from among its members and adopt operating procedures.

(8) The grant agreement must be conditioned to require that at least an amount of funding equal to the state grant be applied to the project from nonstate sources.

(9) The grantee must provide a final report describing its review and recommendations to the governor and the appropriate standing committees of the senate and the house of representatives by October 1, 2003.

Passed the Senate March 12, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 288

[Engrossed Substitute House Bill 1411]

HAZARDOUS SUBSTANCES—RELEASES—PUBLIC NOTIFICATION

AN ACT Relating to public notification of releases of hazardous substances; amending RCW 70.105D.010, 70.105D.030, and 70.105D.050; adding a new section to chapter 70.105D RCW; prescribing penalties; and providing an effective date.

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

Sec. 1. RCW 70.105D.010 and 1994 c 254 s 1 are each amended to read as follows:

(1) Each person has a fundamental and inalienable right to a healthful environment, and each person has a responsibility to preserve and enhance that right. 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.

(2) A healthful environment is now threatened by the irresponsible use and disposal of hazardous substances. There are hundreds of hazardous waste sites in this state, and more will be created if current waste practices continue. Hazardous waste sites threaten the state's water resources, including those used for public drinking water. Many of our municipal landfills are current or potential hazardous waste sites and present serious threats to human health and environment. The costs of eliminating these threats in many cases are beyond the financial means of our local governments and ratepayers. The main purpose of chapter 2, Laws of 1989 is to raise sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters.

(3) Many farmers and small business owners who have followed the law with respect to their uses of pesticides and other chemicals nonetheless may face devastating economic consequences because their uses have contaminated the environment or the water supplies of their neighbors. With a source of funds, the state may assist these farmers and business owners, as well as those persons who sustain damages, such as the loss of their drinking water supplies, as a result of the contamination.

(4) It is in the public's interest to efficiently use our finite land base, to integrate our land use planning policies with our clean-up policies, and to clean up and reuse contaminated industrial properties in order to minimize industrial development pressures on undeveloped land and to make clean land available for future social use.

(5) 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 responsible person should be liable jointly and severally.

(6) Because releases of hazardous substances can adversely affect the health and welfare of the public, the environment, and property values, it is in the public interest that affected communities be notified of where releases of hazardous substances have occurred and what is being done to clean them up.

NEW SECTION. **Sec. 2.** A new section is added to chapter 70.105D RCW to read as follows:

(1) Except as provided in subsection (5) of this section, any owner or operator of a facility that is actively transitioning from operating under a federal permit for treatment, storage, or disposal of hazardous waste issued under 42 U.S.C. Sec. 6925 to operating under the provisions of this chapter, who has information that a hazardous substance has been released to the environment at the owner or operator's facility that may be a threat to human health or the environment, shall issue a notice to the department within ninety days. The notice shall include a description of any remedial actions planned, completed, or underway.

(2) The notice must be posted in a visible, publicly accessible location on the facility, to remain in place until all remedial actions except confirmational monitoring are complete.

(3) After receiving the notice from the facility, the department must review the notice and mail a summary of its contents, along with any additional information deemed appropriate by the department, to:

(a) Each residence and landowner of a residence whose property boundary is within three hundred feet of the boundary of the property where the release occurred or if the release occurred from a pipeline or other facility that does not have a property boundary, within three hundred feet of the actual release;

(b) Each business and landowner of a business whose property boundary is within three hundred feet of the boundary of the property where the release occurred;

(c) Each residence, landowner of a residence, and business with a property boundary within the area where hazardous substances have come to be located as a result of the release;

(d) Neighborhood associations and community organizations representing an area within one mile of the facility and recognized by the city or county with jurisdiction within this area;

(e) The city, county, and local health district with jurisdiction within the areas described in (a), (b), and (c) of this subsection; and

(f) The department of health.

(4) A notice produced by a facility shall provide the following information:

(a) The common name of any hazardous substances released and, if available, the chemical abstract service registry number of these substances;

(b) The address of the facility where the release occurred;

(c) The date the release was discovered;

(d) The cause and date of the release, if known;

(e) The remedial actions being taken or planned to address the release;

(f) The potential health and environmental effects of the hazardous substances released; and

(g) The name, address, and telephone number of a contact person at the facility where the release occurred.

(5) The following releases are exempt from the notification requirements in this section:

(a) Application of pesticides and fertilizers for their intended purposes and according to label instructions;

(b) The lawful and nonnegligent use of hazardous household substances by a natural person for personal or domestic purposes;

(c) The discharge of hazardous substances in compliance with permits issued under chapter 70.94, 90.48, or 90.56 RCW;

(d) De minimis amounts of any hazardous substance leaked or discharged onto the ground;

(e) The discharge of hazardous substances to a permitted waste water treatment facility or from a permitted waste water collection system or treatment facility as allowed by a facility's discharge permit;

(f) Any releases originating from a single-family or multifamily residence, including but not limited to the discharge of oil from a residential home heating oil tank with the capacity of five hundred gallons or less;

(g) Any spill on a public road, street, or highway or to surface waters of the state that has previously been reported to the United States coast guard and the state division of emergency management under chapter 90.56 RCW;

(h) Any release of hazardous substances to the air;

(i) Any release that occurs on agricultural land, including land used to grow trees for the commercial production of wood or wood fiber, that is at least five acres in size, when the effects of the release do not come within three hundred feet of any property boundary. For the purposes of this subsection, agricultural land includes incidental uses that are compatible with agricultural or silvicultural purposes, including, but not limited to, land used for the housing of the owner, operator, or employees, structures used for the storage or repair of equipment, machinery, and chemicals, and any paths or roads on the land; and

(j) Releases that, before the effective date of this section, have been previously reported to the department, or remediated in compliance with a settlement agreement under RCW 70.105D.040(4) or enforcement order or agreed order issued under this chapter or have been the subject of an opinion from the department under RCW 70.105D.030(1)(i) that no further remedial action is required.

An exemption from the notification requirements of this section does not exempt the owner or operator of a facility from any other notification or reporting requirements, or imply a release from liability under this chapter.

(6) If a significant segment of the community to be notified speaks a language other than English, an appropriate translation of the notice must also be posted and mailed to the department in accordance with the requirements of this section.

(7) The facility where the release occurred is responsible for reimbursing the department within thirty days for the actual costs associated with the production and mailing of the notices under this section.

Sec. 3. RCW 70.105D.030 and 2001 c 291 s 401 are each amended to read as follows:

(1) The department may exercise the following powers in addition to any other powers granted by law:

(a) Investigate, provide for investigating, or require potentially liable persons to investigate any releases or threatened releases of hazardous substances, including but not limited to inspecting, sampling, or testing to determine the nature or extent of any release or threatened release. If there is a reasonable basis to believe that a release or threatened release of a hazardous substance may exist, the department's authorized employees, agents, or contractors may enter upon any property and conduct investigations. The department shall give reasonable notice before entering property unless an emergency prevents such notice. The department may by subpoena require the attendance or testimony of witnesses and the production of documents or other information that the department deems necessary;

(b) Conduct, provide for conducting, or require potentially liable persons to conduct remedial actions (including investigations under (a) of this subsection) to remedy releases or threatened releases of hazardous substances. In carrying out such powers, the department's authorized employees, agents, or contractors may enter upon property. The department shall give reasonable notice before entering property unless an emergency prevents such notice. 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;

(c) Indemnify contractors retained by the department for carrying out investigations and remedial actions, but not for any contractor's reckless or wilful misconduct;

(d) 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;

(e) Classify substances as hazardous substances for purposes of RCW 70.105D.020(7) and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1);

(f) Issue orders or enter into consent decrees or agreed orders that include, or issue written opinions under (i) of this subsection that may be conditioned upon, deed restrictions where necessary to protect human health and the environment from a release or threatened release of a hazardous substance from a facility. Prior to establishing a deed restriction under this subsection, the department shall notify and seek comment from a city or county department with land use planning authority for real property subject to a deed restriction;

(g) Enforce the application of permanent and effective institutional controls that are necessary for a remedial action to be protective of human health and the environment and the notification requirements established in section 2 of this act,

and impose penalties for violations of that section consistent with RCW 70.105D.050;

(h) Require holders to conduct remedial actions necessary to abate an imminent or substantial endangerment pursuant to RCW 70.105D.020(12)(b)(ii)(C);

(i) Provide informal advice and assistance to persons regarding the administrative and technical requirements of this chapter. This may include site-specific advice to persons who are conducting or otherwise interested in independent remedial actions. Any such advice or assistance shall be advisory only, and shall not be binding on the department. As a part of providing this advice and assistance for independent remedial actions, the department may prepare written opinions regarding whether the independent remedial actions or proposals for those actions meet the substantive requirements of this chapter or whether the department believes further remedial action is necessary at the facility. The department may collect, from persons requesting advice and assistance, the costs incurred by the department in providing such advice and assistance; however, the department shall, where appropriate, waive collection of costs in order to provide an appropriate level of technical assistance in support of public participation. The state, the department, and officers and employees of the state are immune from all liability, and no cause of action of any nature may arise from any act or omission in providing, or failing to provide, informal advice and assistance; and

(j) Take any other actions necessary to carry out the provisions of this chapter, including the power to adopt rules under chapter 34.05 RCW.

(2) The department shall immediately implement all provisions of this chapter to the maximum extent practicable, including investigative and remedial actions where appropriate. The department shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) public notice of the development of investigative plans or remedial plans for releases or threatened releases and (ii) concurrent public notice of all compliance orders, agreed orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

(c) Provide for requiring the reporting by an owner or operator of releases of hazardous substances to the environment that may be a threat to human health or the environment within ninety days of discovery, including such exemptions from reporting as the department deems appropriate, however this requirement shall not modify any existing requirements provided for under other laws;

(d) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives notice or otherwise 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;

(e) Publish and periodically update minimum cleanup standards for remedial actions at least as stringent as the cleanup standards under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621, and at least as stringent as all applicable state and federal laws, including health-based standards under state and federal law; and

(f) Apply industrial clean-up standards at industrial properties. Rules adopted under this subsection shall ensure that industrial properties cleaned up to industrial standards cannot be converted to nonindustrial uses without approval from the department. The department may require that a property cleaned up to industrial standards is cleaned up to a more stringent applicable standard as a condition of conversion to a nonindustrial use. Industrial clean-up standards may not be applied to industrial properties where hazardous substances remaining at the property after remedial action pose a threat to human health or the environment in adjacent nonindustrial areas.

(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 RCW 70.105D.020(7) and the classification of substances or products as hazardous substances for purposes of RCW 82.21.020(1). The board shall consist of five independent members to serve staggered three-year terms. 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.

Sec. 4. RCW 70.105D.050 and 1994 c 257 s 12 are each amended to read as follows:

(1) With respect to any release, or threatened release, for which the department does not conduct or contract for conducting remedial action and for which the department believes remedial action is in the public interest, the director shall issue orders or agreed orders requiring potentially liable persons to provide the remedial

action. Any liable person who refuses, without sufficient cause, to comply with an order or agreed order of the director is liable in an action brought by the attorney general for:

(a) Up to three times the amount of any costs incurred by the state as a result of the party's refusal to comply; and

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

The treble damages and civil penalty under this subsection apply to all recovery actions filed on or after March 1, 1989.

(2) Any person who incurs costs complying with an order issued under subsection (1) of this section may petition the department for reimbursement of those costs. If the department refuses to grant reimbursement, the person may within thirty days thereafter file suit and recover costs by proving that he or she was not a liable person under RCW 70.105D.040 and that the costs incurred were reasonable.

(3) The attorney general shall seek, by filing an action if necessary, to recover the amounts spent by the department for investigative and remedial actions and orders, and agreed orders, including amounts spent prior to March 1, 1989.

(4) The attorney general may bring an action to secure such relief as is necessary to protect human health and the environment under this chapter.

(5)(a) 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 exists. The court may award attorneys' fees and other costs to the prevailing party in the action.

(b) Civil actions under this section and RCW 70.105D.060 may be brought in the superior court of Thurston county or of the county in which the release or threatened release exists.

(6) Any person who fails to provide notification of releases consistent with section 2 of this act or who submits false information is liable in an action brought by the attorney general for a civil penalty of up to five thousand dollars per day for each day the party refuses to comply.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. Sections 2 through 4 of this act take effect January 1, 2003.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 289

[Substitute House Bill 2468]

DNA DATA BASE

AN ACT Relating to the convicted offender DNA data base; amending RCW 43.43.754, 43.43.759, and 9.94A.505; amending 1989 c 350 s 1 (uncodified); adding new sections to chapter 43.43 RCW; and providing an effective date.

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

Sec. 1. 1989 c 350 s 1 (uncodified) is amended to read as follows:

The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that ~~((the accuracy of identification provided by this method is superior to that of any presently existing technique and recognizes the importance of this scientific breakthrough in providing a reliable and accurate tool for the investigation and prosecution of sex offenses as defined in RCW 9.94A.030(26) and violent offenses as defined in RCW 9.94A.030(29)))~~ DNA data bases are important tools in criminal investigations, in the exclusion of individuals who are the subject of investigations or prosecutions, and in detecting recidivist acts. It is the policy of this state to assist federal, state, and local criminal justice and law enforcement agencies in both the identification and detection of individuals in criminal investigations and the identification and location of missing and unidentified persons. Therefore it is in the best interest of the state to establish a DNA data base and DNA data bank containing DNA samples submitted by persons convicted of felony offenses and DNA samples necessary for the identification of missing persons and unidentified human remains.

The legislature further finds that the DNA identification system used by the Federal Bureau of Investigation and the Washington state patrol has no ability to predict genetic disease or predisposal to illness. Nonetheless, the legislature intends that biological samples collected under RCW 43.43.754, and DNA identification data obtained from the samples, be used only for purposes related to criminal investigation, identification of human remains or missing persons, or improving the operation of the system authorized under RCW 43.43.752 through 43.43.758.

Sec. 2. RCW 43.43.754 and 1999 c 329 s 2 are each amended to read as follows:

(1) Every adult or juvenile individual convicted of a felony, stalking under RCW 9A.46.110, harassment under RCW 9A.46.020, communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense ~~((defined as a sex offense under RCW 9.94A.030(33)(a) or a violent offense as defined in RCW 9.94A.030~~ shall have a

~~blood sample drawn~~) must have a biological sample collected for purposes of DNA identification analysis(:-) in the following manner:

(a) For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense who ~~((are serving or who are to serve a term of confinement in a county jail or detention))~~ do not serve a term of confinement in a department of corrections facility, and do serve a term of confinement in a city or county jail facility, the city or county shall be responsible for obtaining ~~((blood))~~ the biological samples either as part of the intake process into the city or county jail or detention facility for those persons convicted on or after ~~((July 25, 1999))~~ the effective date of this act, or within a reasonable time after ~~((July 25, 1999))~~ the effective date of this act, for those persons incarcerated ~~((prior to July 25, 1999))~~ before the effective date of this act, who have not yet had a ~~((blood))~~ biological sample ~~((drawn))~~ collected, beginning with those persons who will be released the soonest.

(b) For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense who do not serve a term of confinement in a department of corrections facility, and do not serve a term of confinement in a city or county jail facility, the local police department or sheriff's office is responsible for obtaining the biological samples after sentencing on or after the effective date of this act.

(c) For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense, who are serving or who are to serve a term of confinement in a department of corrections facility or a ~~((division of juvenile rehabilitation))~~ department of social and health services facility, the facility holding the person shall be responsible for obtaining ~~((blood))~~ the biological samples either as part of the intake process into such facility for those persons convicted on or after ~~((July 25, 1999))~~ the effective date of this act, or within a reasonable time after ~~((July 25, 1999))~~ the effective date of this act, for those persons incarcerated ~~((prior to July 25, 1999))~~ before the effective date of this act, who have not yet had a ~~((blood))~~ biological sample ~~((drawn))~~ collected, beginning with those persons who will be released the soonest.

(2) Any ~~((blood))~~ biological sample taken pursuant to RCW 43.43.752 through 43.43.758 may be retained by the forensic laboratory services bureau, and shall be used solely for the purpose of providing DNA or other ~~((blood grouping))~~ tests for identification analysis and prosecution of a ~~((sex offense or a violent offense))~~ criminal offense or for the identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the Federal Bureau of Investigation combined DNA index system.

(3) The director of the forensic laboratory services bureau of the Washington state patrol shall perform testing on all biological samples collected under subsection (1) of this section, to the extent allowed by funding available for this purpose. The director shall give priority to testing on samples collected from those

adults or juveniles convicted of a felony or adjudicated guilty of an equivalent juvenile offense that is defined as a sex offense or a violent offense in RCW 9.94A.030.

(4) This section applies to all adults who are convicted of a sex or violent offense after July 1, 1990; and to all adults who were convicted of a sex or violent offense on or prior to July 1, 1990, and who are still incarcerated on or after July 25, 1999. This section applies to all juveniles who are adjudicated guilty of a sex or violent offense after July 1, 1994; and to all juveniles who were adjudicated guilty of a sex or violent offense on or prior to July 1, 1994, and who are still incarcerated on or after July 25, 1999. This section applies to all adults and juveniles who are convicted of a felony other than a sex or violent offense, stalking under RCW 9A.46.110, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, on or after the effective date of this act; and to all adults and juveniles who were convicted or adjudicated guilty of such an offense before the effective date of this act and are still incarcerated on or after the effective date of this act.

(5) This section creates no rights in a third person. No cause of action may be brought based upon the noncollection or nonanalysis or the delayed collection or analysis of a biological sample authorized to be taken under RCW 43.43.752 through 43.43.758.

(6) The detention, arrest, or conviction of a person based upon a data base match or data base information is not invalidated if it is determined that the sample was obtained or placed in the data base by mistake, or if the conviction or juvenile adjudication that resulted in the collection of the biological sample was subsequently vacated or otherwise altered in any future proceeding including but not limited to posttrial or postfact-finding motions, appeals, or collateral attacks.

Sec. 3. RCW 43.43.759 and 1990 c 230 s 1 are each amended to read as follows:

The Washington state patrol shall consult with the forensic investigations council and adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation, to the identification of human remains or missing persons, or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758. The rules must also identify appropriate sources and collection methods for biological samples needed for purposes of DNA identification analysis.

NEW SECTION. Sec. 4. A new section is added to chapter 43.43 RCW to read as follows:

Every sentence imposed under chapter 9.94A RCW, for a felony specified in RCW 43.43.754 that is committed on or after the effective date of this act, must include a fee of one hundred dollars for collection of a biological sample as required under RCW 43.43.754, unless the court finds that imposing the fee would

result in undue hardship on the offender. The fee is a court-ordered legal financial obligation as defined in RCW 9.94A.030, payable by the offender after payment of all other legal financial obligations included in the sentence has been completed. The clerk of the court shall transmit fees collected to the state treasurer for deposit in the state DNA data base account created under section 5 of this act.

NEW SECTION. Sec. 5. A new section is added to chapter 43.43 RCW to read as follows:

The state DNA data base account is created in the custody of the state treasurer. All receipts under section 4 of this act must be deposited into the account. Expenditures from the account may be used only for creation, operation, and maintenance of the DNA data base under RCW 43.43.754. Only the chief of the Washington state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

Sec. 6. RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510;

(ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

(iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;

(v) RCW 9.94A.570, relating to persistent offenders;

(vi) RCW 9.94A.540, relating to mandatory minimum terms;

(vii) RCW 9.94A.650, relating to the first-time offender waiver;

(viii) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(ix) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(x) RCW 9.94A.712, relating to certain sex offenses;

(xi) RCW 9.94A.535, relating to exceptional sentences;

(xii) RCW 9.94A.589, relating to consecutive and concurrent sentences.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community service work; until July 1, 2000, a term of community supervision not to exceed one year and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations. The court may impose a sentence which provides more than one year

of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) 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.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, ~~((and))~~ 9.94A.760, and section 4 of this act.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) 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.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 8.** Section 1 of this act is added to chapter 43.43 RCW.

NEW SECTION. **Sec. 9.** This act takes effect July 1, 2002.

Passed the House March 12, 2002.

Passed the Senate March 4, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 290

[Second Substitute House Bill 2338]

SENTENCING—DRUG OFFENSES

AN ACT Relating to the recommendations of the sentencing guidelines commission regarding drug offenses; amending RCW 9.94A.525, 2.28.170, 9.94A.470, 9.94A.475, 9.94A.480, 9.94A.505, 9.94A.530, 9.94A.585, 9.94A.660, 9.94A.728, 9.94A.850, and 10.01.210; reenacting and amending RCW 9.94A.515, 9.94A.515, and 9.94A.510; adding a new section to chapter 70.96A RCW; adding a new section to chapter 43.135 RCW; adding a new section to chapter 43.20A RCW; adding new sections to chapter 9.94A RCW; creating new sections; prescribing penalties; providing effective dates; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to increase the use of effective substance abuse treatment for defendants and offenders in Washington in order to make frugal use of state and local resources, thus reducing recidivism and increasing the likelihood that defendants and offenders will become productive and law-abiding persons. The legislature recognizes that substance abuse treatment can be effective if it is well planned and involves adequate monitoring, and that substance abuse and addiction is a public safety and public health issue that must be more effectively addressed if recidivism is to be reduced. The legislature intends that sentences for drug offenses accurately reflect the adverse impact of substance abuse and addiction on public safety, that the public must have protection from violent offenders, and further intends that such sentences be based on policies that are supported by research and public policy goals established by the legislature.

Sec. 2. RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)

- XIII Malicious explosion 2 (RCW 70.74.280(2))
Malicious placement of an explosive 1 (RCW 70.74.270(1))
- XII Assault 1 (RCW 9A.36.011)
Assault of a Child 1 (RCW 9A.36.120)
Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a))
Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)
- XI Manslaughter 1 (RCW 9A.32.060)
Rape 2 (RCW 9A.44.050)
Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))
Kidnapping 1 (RCW 9A.40.020)
Leading Organized Crime (RCW 9A.82.060(1)(a))
Malicious explosion 3 (RCW 70.74.280(3))
Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii))
Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
Controlled Substance Homicide (RCW 69.50.415)
Explosive devices prohibited (RCW 70.74.180)
Hit and Run—Death (RCW 46.52.020(4)(a))
Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
Malicious placement of an explosive 2 (RCW 70.74.270(2))
Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from

Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

Robbery 1 (RCW 9A.56.200)

Sexual Exploitation (RCW 9.68A.040)

Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)

VIII

Arson 1 (RCW 9A.48.020)

Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))

Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)

Manslaughter 2 (RCW 9A.32.070)

Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))

Manufacture, deliver, or possess with intent to deliver heroin or cocaine (when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))

Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)

Promoting Prostitution 1 (RCW 9A.88.070)

Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)

Theft of Anhydrous Ammonia (RCW 69.55.010)

Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII

Burglary 1 (RCW 9A.52.020)

Child Molestation 2 (RCW 9A.44.086)

Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)

Drive-by Shooting (RCW 9A.36.045)

- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
 - Introducing Contraband 1 (RCW 9A.76.140)
 - Involving a minor in drug dealing (RCW 69.50.401(f))
 - Malicious placement of an explosive 3 (RCW 70.74.270(3))
 - Manufacture, deliver, or possess with intent to deliver heroin or cocaine (except when the offender has a criminal history in this state or any other state that includes a sex offense or serious violent offense or the Washington equivalent) (RCW 69.50.401(a)(1)(i))
 - Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
 - Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
 - Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
 - Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI
- Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
 - Bribery (RCW 9A.68.010)
 - Incest 1 (RCW 9A.64.020(1))
 - Intimidating a Judge (RCW 9A.72.160)
 - Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
 - Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
 - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
 - Rape of a Child 3 (RCW 9A.44.079)
 - Theft of a Firearm (RCW 9A.56.300)

Unlawful Storage of Anhydrous Ammonia
(RCW 69.55.020)

V

Abandonment of dependent person 1 (RCW
9A.42.060)

Advancing money or property for extortionate
extension of credit (RCW 9A.82.030)

Bail Jumping with class A Felony (RCW
9A.76.170(3)(b))

Child Molestation 3 (RCW 9A.44.089)

Criminal Mistreatment 1 (RCW 9A.42.020)

Custodial Sexual Misconduct 1 (RCW
9A.44.160)

Delivery of imitation controlled substance by
person eighteen or over to person under
eighteen (RCW 69.52.030(2))

Domestic Violence Court Order Violation
(RCW 10.99.040, 10.99.050, 26.09.300,
26.10.220, 26.26.138, 26.50.110,
26.52.070, or 74.34.145)

Extortion 1 (RCW 9A.56.120)

Extortionate Extension of Credit (RCW
9A.82.020)

Extortionate Means to Collect Extensions of
Credit (RCW 9A.82.040)

Incest 2 (RCW 9A.64.020(2))

Kidnapping 2 (RCW 9A.40.030)

Perjury 1 (RCW 9A.72.020)

Persistent prison misbehavior (RCW 9.94.070)

Possession of a Stolen Firearm (RCW
9A.56.310)

Rape 3 (RCW 9A.44.060)

Rendering Criminal Assistance 1 (RCW
9A.76.070)

Sexual Misconduct with a Minor 1 (RCW
9A.44.093)

Sexually Violating Human Remains (RCW
9A.44.105)

Stalking (RCW 9A.46.110)

IV

Arson 2 (RCW 9A.48.030)

Assault 2 (RCW 9A.36.021)

Assault by Watercraft (RCW 79A.60.060)

Bribing a Witness/Bribe Received by Witness
(RCW 9A.72.090, 9A.72.100)

- Commercial Bribery (RCW 9A.68.060)
 - Counterfeiting (RCW 9.16.035(4))
 - Escape 1 (RCW 9A.76.110)
 - Hit and Run—Injury (RCW 46.52.020(4)(b))
 - Hit and Run with Vessel—Injury Accident
(RCW 79A.60.200(3))
 - Identity Theft 1 (RCW 9.35.020(2)(a))
 - Indecent Exposure to Person Under Age
Fourteen (subsequent sex offense) (RCW
9A.88.010)
 - Influencing Outcome of Sporting Event (RCW
9A.82.070)
 - Knowingly Trafficking in Stolen Property
(RCW 9A.82.050(2))
 - Malicious Harassment (RCW 9A.36.080)
 - Manufacture, deliver, or possess with intent to
deliver narcotics from Schedule III, IV, or
V or nonnarcotics from Schedule I-V
(except marijuana, amphetamine,
methamphetamines, or flunitrazepam)
(RCW 69.50.401(a)(1) (iii) through (v))
 - Residential Burglary (RCW 9A.52.025)
 - Robbery 2 (RCW 9A.56.210)
 - Theft of Livestock 1 (RCW 9A.56.080)
 - Threats to Bomb (RCW 9.61.160)
 - Use of Proceeds of Criminal Profiteering (RCW
9A.82.080 (1) and (2))
 - Vehicular Assault, by being under the influence
of intoxicating liquor or any drug, or by
the operation or driving of a vehicle in a
reckless manner (RCW 46.61.522)
 - Willful Failure to Return from Furlough (RCW
72.66.060)
- III
- Abandonment of dependent person 2 (RCW
9A.42.070)
 - Assault 3 (RCW 9A.36.031)
 - Assault of a Child 3 (RCW 9A.36.140)
 - Bail Jumping with class B or C Felony (RCW
9A.76.170(3)(c))
 - Burglary 2 (RCW 9A.52.030)
 - Communication with a Minor for Immoral
Purposes (RCW 9.68A.090)
 - Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)
Custodial Assault (RCW 9A.36.100)
Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
Escape 2 (RCW 9A.76.120)
Extortion 2 (RCW 9A.56.130)
Harassment (RCW 9A.46.020)
Intimidating a Public Servant (RCW 9A.76.180)
Introducing Contraband 2 (RCW 9A.76.150)
Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))
Malicious Injury to Railroad Property (RCW 81.60.070)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Perjury 2 (RCW 9A.72.030)
Possession of Incendiary Device (RCW 9.40.120)
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Promoting Prostitution 2 (RCW 9A.88.080)
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Securities Act violation (RCW 21.20.400)
Tampering with a Witness (RCW 9A.72.120)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
Theft of Livestock 2 (RCW 9A.56.080)
Unlawful Imprisonment (RCW 9A.40.040)
Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
Unlawful Use of Building for Drug Purposes (RCW 69.53.010)
Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

- Willful Failure to Return from Work Release
(RCW 72.65.070)
- II Computer Trespass 1 (RCW 9A.52.110)
Counterfeiting (RCW 9.16.035(3))
Create, deliver, or possess a counterfeit
controlled substance (RCW 69.50.401(b))
Escape from Community Custody (RCW
72.09.310)
Health Care False Claims (RCW 48.80.030)
Identity Theft 2 (RCW 9.35.020(2)(b))
Improperly Obtaining Financial Information
(RCW 9.35.010)
Malicious Mischief 1 (RCW 9A.48.070)
Possession of controlled substance that is either
heroin or narcotics from Schedule I or II
or flunitrazepam from Schedule IV (RCW
69.50.401(d))
Possession of phencyclidine (PCP) (RCW
69.50.401(d))
Possession of Stolen Property I (RCW
9A.56.150)
Theft 1 (RCW 9A.56.030)
Theft of Rental, Leased, or Lease-purchased
Property (valued at one thousand five
hundred dollars or more) (RCW
9A.56.096(4))
Trafficking in Insurance Claims (RCW
48.30A.015)
Unlawful Practice of Law (RCW 2.48.180)
Unlicensed Practice of a Profession or Business
(RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle
(RCW 46.61.024)
False Verification for Welfare (RCW
74.08.055)
Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled Substance
(RCW 69.50.403)
Forgery (RCW 9A.60.020)
Malicious Mischief 2 (RCW 9A.48.080)
Possess Controlled Substance that is a Narcotic
from Schedule III, IV, or V or Non-
narcotic from Schedule I-V (except

- phencyclidine or flunitrazepam). (RCW 69.50.401(d))
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 3. RCW 9.94A.525 and 2001 c 264 s 5 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are 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.589.

(2) Class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses 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 committing any crime that subsequently results in a conviction. Class C prior felony convictions other than sex offenses 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 committing any crime that subsequently results in a conviction. 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 committing any crime that subsequently results in a conviction. 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. Federal convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law. If there is no clearly comparable offense under Washington law or the offense is one that is usually considered subject to exclusive federal jurisdiction, the offense shall be scored as a class C felony equivalent if it was a felony under the relevant federal statute.

(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)(a) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(i) Prior offenses which were found, under RCW 9.94A.589(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 or prior juvenile offenses for which sentences were served consecutively, whether those offenses shall be counted as one offense or as separate offenses using the "same criminal conduct" analysis found in RCW 9.94A.589(1)(a), 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. The current sentencing court may presume that such other prior offenses were not the same criminal conduct from sentences imposed on separate dates, or in separate counties or jurisdictions, or in separate complaints, indictments, or informations;

(ii) 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.

(b) As used in this subsection (5), "served concurrently" means that: (i) The latter sentence was imposed with specific reference to the former; (ii) the concurrent relationship of the sentences was judicially imposed; and (iii) the concurrent timing of the sentences was not the result of a probation or parole revocation on the former offense.

(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. When these convictions are used as criminal history, score them the same as a completed crime.

(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 a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category, 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 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary 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 or Vehicular Assault; for each felony offense count one point for each adult and 1/2 point for each juvenile prior conviction; for each serious traffic offense, other than those used for an enhancement pursuant to RCW 46.61.520(2), count one point for each adult and 1/2 point for each juvenile prior conviction.

(12) If the present conviction is for ~~((a drug offense))~~ manufacture of methamphetamine count three points for each adult prior ~~((felony drug offense))~~ manufacture of methamphetamine conviction and two points for each juvenile ~~((drug))~~ manufacture of methamphetamine offense. If the present conviction is for a drug offense and the offender has a criminal history that includes a sex offense or serious violent offense, count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (8) of this section if the current drug offense is violent, or as in subsection (7) of this section if the current drug offense is nonviolent.

(13) If the present conviction is for Escape from Community Custody, RCW 72.09.310, 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 or residential burglary, 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 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(16) If the present conviction is for a sex offense, count priors as in subsections (7) through (15) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(17) If the present conviction is for an offense committed while the offender was under community placement, add one point.

NEW SECTION. Sec. 4. A new section is added to chapter 70.96A RCW to read as follows:

(1) The criminal justice treatment account is created in the state treasury. Moneys in the account may be expended solely for: (a) Substance abuse treatment and treatment support services for offenders with an addiction or a substance abuse problem that, if not treated, would result in addiction, against whom charges are filed by a prosecuting attorney in Washington state; and (b) the provision of drug and alcohol treatment services and treatment support services for nonviolent offenders within a drug court program. Moneys in the account may be spent only after appropriation.

(2) For purposes of this section:

(a) "Treatment" means services that are critical to a participant's successful completion of his or her substance abuse treatment program, but does not include the following services: Housing other than that provided as part of an inpatient substance abuse treatment program, vocational training, and mental health counseling; and

(b) "Treatment support" means transportation to or from inpatient or outpatient treatment services when no viable alternative exists, and child care services that are necessary to ensure a participant's ability to attend outpatient treatment sessions.

(3) Revenues to the criminal justice treatment account consist of: (a) Savings to the state general fund resulting from implementation of this act, as calculated pursuant to this section; and (b) any other revenues appropriated to or deposited in the account.

(4)(a) The department of corrections, the sentencing guidelines commission, the office of financial management, and the caseload forecast council shall develop a methodology for calculating the projected biennial savings under this section. Savings shall be projected for the fiscal biennium beginning on July 1, 2003, and for each biennium thereafter. By September 1, 2002, the proposed methodology shall be submitted to the governor and the appropriate committees of the legislature. The methodology is deemed approved unless the legislature enacts legislation to modify or reject the methodology.

(b) When the department of corrections submits its biennial budget request to the governor in 2002 and in each even-numbered year thereafter, the department of corrections shall use the methodology approved in (a) of this subsection to calculate savings to the state general fund for the ensuing fiscal biennium resulting

from reductions in drug offender sentencing as a result of sections 2 and 3, chapter . . . , Laws of 2002 (sections 2 and 3 this act) and sections 7, 8, and 9, chapter . . . , Laws of 2002 (sections 7, 8, and 9 this act). The department shall report the dollar amount of the savings to the state treasurer, the office of financial management, and the fiscal committees of the legislature.

(c) For the fiscal biennium beginning July 1, 2003, and each fiscal biennium thereafter, the state treasurer shall transfer seventy-five percent of the amount reported in (b) of this subsection from the general fund into the criminal justice treatment account, divided into eight equal quarterly payments. However, the amount transferred to the criminal justice treatment account shall not exceed the limit of eight million two hundred fifty thousand dollars per fiscal year. After the first fiscal year in which the amount to be transferred equals or exceeds eight million two hundred fifty thousand dollars, this limit shall be increased on an annual basis by the implicit price deflator as published by the federal bureau of labor statistics.

(d) For the fiscal biennium beginning July 1, 2003, and each biennium thereafter, the state treasurer shall transfer twenty-five percent of the amount reported in (b) of this subsection from the general fund into the violence reduction and drug enforcement account, divided into eight quarterly payments. The amounts transferred pursuant to this subsection (4)(d) shall be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility receiving a reduced sentence as a result of implementation of this act and who are assessed with an addiction or a substance abuse problem that if not treated would result in addiction. Any excess funds remaining after providing drug and alcohol treatment services to offenders receiving a reduced sentence as a result of implementation of this act may be expended to provide treatment for offenders confined in a state correctional facility and who are assessed with an addiction or a substance abuse problem that contributed to the crime.

(e) In each odd-numbered year, the legislature shall appropriate the amount transferred to the criminal justice treatment account in (c) of this subsection to the division of alcohol and substance abuse for the purposes of subsection (5) of this section.

(5) Moneys appropriated to the division of alcohol and substance abuse from the criminal justice treatment account shall be distributed as specified in this subsection. The department shall serve as the fiscal agent for purposes of distribution. Until July 1, 2004, the department may not use moneys appropriated from the criminal justice treatment account for administrative expenses and shall distribute all amounts appropriated under subsection (4)(e) of this section in accordance with this subsection. Beginning in July 1, 2004, the department may retain up to three percent of the amount appropriated under subsection (4)(e) of this section for its administrative costs.

(a) Seventy percent of amounts appropriated to the division from the account shall be distributed to counties pursuant to the distribution formula adopted under this section. The division of alcohol and substance abuse, in consultation with the department of corrections, the sentencing guidelines commission, the Washington state association of counties, the Washington state association of drug court professionals, the superior court judges' association, the Washington association of prosecuting attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary, shall establish a fair and reasonable methodology for distribution to counties of moneys in the criminal justice treatment account. County or regional plans submitted for the expenditure of formula funds must be approved by the panel established in (b) of this subsection.

(b) Thirty percent of the amounts appropriated to the division from the account shall be distributed as grants for purposes of treating offenders against whom charges are filed by a county prosecuting attorney. The division shall appoint a panel of representatives from the Washington association of prosecuting attorneys, the Washington association of sheriffs and police chiefs, the superior court judges' association, the Washington state association of counties, the Washington defender's association or the Washington association of criminal defense lawyers, the department of corrections, the Washington state association of drug court professionals, substance abuse treatment providers, and the division. The panel shall review county or regional plans for funding under (a) of this subsection and grants approved under this subsection. The panel shall attempt to ensure that treatment as funded by the grants is available to offenders statewide.

(6) The county alcohol and drug coordinator, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and, in counties with a drug court, a representative of the drug court shall jointly submit a plan, approved by the county legislative authority or authorities, to the panel established in subsection (5)(b) of this section, for disposition of all the funds provided from the criminal justice treatment account within that county. The funds shall be used solely to provide approved alcohol and substance abuse treatment pursuant to RCW 70.96A.090 and treatment support services. No more than ten percent of the total moneys received under subsections (4) and (5) of this section by a county or group of counties participating in a regional agreement shall be spent for treatment support services.

(7) Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment under this section.

(8) Moneys allocated under this section shall be used to supplement, not supplant, other federal, state, and local funds used for substance abuse treatment.

(9) Counties must meet the criteria established in RCW 2.28.170(3)(b).

NEW SECTION. **Sec. 5.** A new section is added to chapter 43.135 RCW to read as follows:

RCW 43.135.035(4) does not apply to the transfers established in section 4 of this act.

NEW SECTION. Sec. 6. A new section is added to chapter 43.20A RCW to read as follows:

The department of social and health services shall annually review and monitor the expenditures made by any county or group of counties which is funded, in whole or in part, with funds provided by this act. Counties shall repay any funds that are not spent in accordance with the requirements of this act.

Sec. 7. RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a)) Malicious explosion 3 (RCW 70.74.280(3)) ((Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii)) Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or

- ~~flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406))~~
- ~~Sexually Violent Predator Escape (RCW 9A.76.115)~~
- IX Assault of a Child 2 (RCW 9A.36.130)
 ((~~Controlled Substance Homicide (RCW 69.50.415))~~)
- Explosive devices prohibited (RCW 70.74.180)
 Hit and Run—Death (RCW 46.52.020(4)(a))
 Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
 Malicious placement of an explosive 2 (RCW 70.74.270(2))
 ((~~Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406))~~)
- Robbery 1 (RCW 9A.56.200)
 Sexual Exploitation (RCW 9.68A.040)
 Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
 ((~~Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))~~)
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
 Manslaughter 2 (RCW 9A.32.070)
 ((~~Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))~~)
- ~~Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))~~
- ~~Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to~~

- ~~manufacture methamphetamine (RCW 69.50.440))~~
- Promoting Prostitution 1 (RCW 9A.88.070)
 ((~~Selling for profit (controlled or counterfeit any controlled substance (RCW 69.50.410))~~))
- Theft of Anhydrous Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII
- Burglary 1 (RCW 9A.52.020)
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Drive-by Shooting (RCW 9A.36.045)
- Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Introducing Contraband 1 (RCW 9A.76.140)
 ((~~Involving a minor in drug dealing (RCW 69.50.401(f))~~))
- Malicious placement of an explosive 3 (RCW 70.74.270(3))
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI
- Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)

- Malicious placement of an imitation device 2
(RCW 70.74.272(1)(b))
~~((Manufacture, deliver, or possess with intent to
deliver narcotics from Schedule I or II
(except heroin or cocaine) or
flunitrazepam from Schedule IV (RCW
69.50.401(a)(1)(i))))~~
- Rape of a Child 3 (RCW 9A.44.079)
Theft of a Firearm (RCW 9A.56.300)
Unlawful Storage of Anhydrous Ammonia
(RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW
9A.42.060)
Advancing money or property for extortionate
extension of credit (RCW 9A.82.030)
Bail Jumping with class A Felony (RCW
9A.76.170(3)(b))
Child Molestation 3 (RCW 9A.44.089)
Criminal Mistreatment 1 (RCW 9A.42.020)
Custodial Sexual Misconduct 1 (RCW
9A.44.160)
~~((Delivery of imitation controlled substance by
person eighteen or over to person under
eighteen (RCW 69.52.030(2))))~~
- Domestic Violence Court Order Violation
(RCW 10.99.040, 10.99.050, 26.09.300,
26.10.220, 26.26.138, 26.50.110,
26.52.070, or 74.34.145)
Extortion 1 (RCW 9A.56.120)
Extortionate Extension of Credit (RCW
9A.82.020)
Extortionate Means to Collect Extensions of
Credit (RCW 9A.82.040)
Incest 2 (RCW 9A.64.020(2))
Kidnapping 2 (RCW 9A.40.030)
Perjury 1 (RCW 9A.72.020)
Persistent prison misbehavior (RCW 9.94.070)
Possession of a Stolen Firearm (RCW
9A.56.310)
Rape 3 (RCW 9A.44.060)
Rendering Criminal Assistance 1 (RCW
9A.76.070)

- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- Malicious Harassment (RCW 9A.36.080)
- ~~((Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))))~~
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)

- III Abandonment of dependent person 2 (RCW 9A.42.070)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
- Burglary 2 (RCW 9A.52.030)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Criminal Gang Intimidation (RCW 9A.46.120)
- Criminal Mistreatment 2 (RCW 9A.42.030)
- Custodial Assault (RCW 9A.36.100)
- ~~((Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))))~~
- Escape 2 (RCW 9A.76.120)
- Extortion 2 (RCW 9A.56.130)
- Harassment (RCW 9A.46.020)
- Intimidating a Public Servant (RCW 9A.76.180)
- Introducing Contraband 2 (RCW 9A.76.150)
- ~~((Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))))~~
- Malicious Injury to Railroad Property (RCW 81.60.070)
- ~~((Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))~~
- ~~Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))))~~
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)

Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)

Theft of Livestock 2 (RCW 9A.56.080)

Unlawful Imprisonment (RCW 9A.40.040)

Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))

~~((Unlawful Use of Building for Drug Purposes (RCW 69.53.010)))~~

Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)

Willful Failure to Return from Work Release (RCW 72.65.070)

II Computer Trespass 1 (RCW 9A.52.110)

Counterfeiting (RCW 9.16.035(3))

~~((Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))))~~

Escape from Community Custody (RCW 72.09.310)

Health Care False Claims (RCW 48.80.030)

Identity Theft 2 (RCW 9.35.020(2)(b))

Improperly Obtaining Financial Information (RCW 9.35.010)

Malicious Mischief 1 (RCW 9A.48.070)

~~((Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))))~~

~~Possession of phencyclidine (PCP) (RCW 69.50.401(d))~~

Possession of Stolen Property 1 (RCW 9A.56.150)

Theft 1 (RCW 9A.56.030)

Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))

Trafficking in Insurance Claims (RCW 48.30A.015)

Unlawful Practice of Law (RCW 2.48.180)

Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))

- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- ~~((Forged Prescription (RCW 69.41.020)~~
- ~~Forged Prescription for a Controlled Substance (RCW 69.50.403)))~~
- Forgery (RCW 9A.60.020)
- Malicious Mischief 2 (RCW 9A.48.080)
- ~~((Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d)))~~
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- Vehicle Prowl 1 (RCW 9A.52.095)

NEW SECTION. Sec. 8. A new section is added to chapter 9.94A RCW to read as follows:

(1)

TABLE 3

DRUG OFFENSE SENTENCING GRID

Seriousness Level	Offender Score	Offender Score	Offender Score
	0 to 2	3 to 5	6 to 9 or more
III	51 to 68 months	68+ to 100 months	100+ to 120 months
II	12+ to 20 months	20+ to 60 months	60+ to 120 months
I	0 to 6 months	6+ to 18 months	12+ to 24 months

References to months represent the standard sentence ranges. 12+ equals one year and one day.

(2) The court may utilize any other sanctions or alternatives as authorized by law, including but not limited to the special drug offender sentencing alternative under RCW 9.94A.660 or drug court under RCW 2.28.170.

(3) Nothing in this section creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

NEW SECTION. **Sec. 9.** A new section is added to chapter 9.94A RCW to read as follows:

TABLE 4

DRUG OFFENSES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

- III Any felony offense under chapter 69.50 RCW with a deadly weapon special verdict under RCW 9.94A.602
 - Controlled Substance Homicide (RCW 69.50.415)
 - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
 - Involving a minor in drug dealing (RCW 69.50.401(f))
 - Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii))
 - Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)
 - Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
 - Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)
 - Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- II Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
 - Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))

Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))

Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))

Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

- I Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- 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))
- Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

Sec. 10. RCW 9.94A.510 and 2000 c 132 s 2 and 2000 c 28 s 11 are each reenacted and amended to read as follows:

((+))

TABLE 1
Sentencing Grid

SERIOUSNESS LEVEL	OFFENDER SCORE									9 or more
	0	1	2	3	4	5	6	7	8	
XVI	Life Sentence without Parole/Death Penalty									
XV	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
XIV	14y4m 123- 220	15y4m 134- 234	16y2m 144- 244	17y 154- 254	17y11m 165- 265	18y9m 175- 275	20y5m 195- 295	22y2m 216- 316	25y7m 257- 357	29y 298- 397
XIII	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
XII	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
XI	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
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		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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 standard sentence 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 standard sentence range 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 standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 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 as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:~~

~~—(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection.~~

~~—(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection.~~

~~—(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection.~~

~~—(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all~~

~~firearm enhancements under this subsection shall be twice the amount of the enhancement listed:~~

~~— (c) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4).~~

~~— (f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.~~

~~— (g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.~~

~~— (4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 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 as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:~~

~~— (a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection:~~

~~— (b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection:~~

~~— (c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection:~~

~~— (d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed.~~

~~— (e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4).~~

~~— (f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony.~~

~~— (g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.~~

~~— (5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, 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 additional times shall be added to the standard sentence range determined under subsection (2) of this section:~~

~~— (a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;~~

~~— (b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);~~

~~— (c) Twelve months for offenses committed under RCW 69.50.401(d).~~

~~— For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.~~

~~— (6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605.~~

~~— (7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055:))~~

NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or section 8 of this act.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range 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 seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 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 as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c)

of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 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 as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be granted an extraordinary medical placement when authorized under RCW 9.94A.728(4);

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, 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 additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1) (i) or (ii) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1) (iii), (iv), and (v);

(c) Twelve months for offenses committed under RCW 69.50.401(d).

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.605.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055.

NEW SECTION. Sec. 12. (1) A joint select committee on the drug offense sentencing grid is established.

(2) The committee shall consist of the following persons:

(a) One member from each of the two largest caucuses of the senate, appointed by the president of the senate;

(b) One member from each of the two largest caucuses of the house of representatives, appointed by the speaker of the house;

(c) A superior court judge, selected by the superior court judges' association;

(d) A prosecuting attorney, selected by the Washington association of prosecuting attorneys;

(e) A member selected by the Washington state bar association, whose practice includes a significant amount of time devoted to criminal defense work;

(f) An elected sheriff or a police chief, selected by the Washington association of sheriffs and police chiefs;

(g) A representative from the division of alcohol and substance abuse in the department of social and health services;

(h) A member of the sentencing guidelines commission;

(i) A member of the caseload forecast council;

(j) A representative from the governor's office of financial management;

(k) A representative from the department of corrections;

(l) A representative from the Washington state association of counties;

(m) A county chemical dependency treatment provider;

(n) A chemical dependency treatment provider; and

(o) A representative from the Washington state association of drug court professionals.

(3) The chair and vice-chair of the committee shall be chosen by the members of the committee.

(4) The committee shall review and make recommendations to the legislature and governor regarding the drug offense sentencing grid created pursuant to section 8 of this act. In preparing the recommendations, the committee shall:

(a) Establish a methodology of determining the fiscal consequences to the state and local governments, including the calculation of savings to be dedicated to substance abuse treatment, resulting from the implementation of the grid and any recommended revisions to the grid;

(b) Review and recommend any changes in the sentencing levels and penalties in the drug sentencing grid;

(c) Consider the proportionality of sentencing based on the quantity of controlled substances;

(d) Examine methods for addressing issues of racial disproportionality in sentencing;

(e) Recommend a statewide method of evaluating the success of drug courts in terms of reducing recidivism and increasing the number of persons who participate in drug court programs and remain free of substance abuse;

(f) Review and make any appropriate revisions in statewide criteria for funding substance abuse treatment programs for defendants and offenders; and

(g) Review and make any recommendations for changes in the method of distribution of funding methods established in this act for defendant and offender drug treatment programs.

(5) The committee shall complete its review and submit its recommendations to the legislature and governor not later than June 1, 2003.

(6) The staff of the legislature, the sentencing guidelines commission, and the caseload forecast council shall provide support to the committee.

(7) Nonlegislative members of the committee shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses as provided in RCW 44.04.120.

(8) This section expires December 31, 2003.

Sec. 13. RCW 2.28.170 and 1999 c 197 s 9 are each amended to read as follows:

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)~~(a)~~ Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

~~((a))~~ (i) Exhaust all federal funding received from the office of national drug control policy that is available to support the operations of its drug court and associated services; and

~~((b))~~ (ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services.

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

- (i) The offender would benefit from substance abuse treatment;
- (ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and
- (iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:
 - (A) That is a sex offense;
 - (B) That is a serious violent offense;
 - (C) During which the defendant used a firearm; or
 - (D) During which the defendant caused substantial or great bodily harm or death to another person.

Sec. 14. RCW 9.94A.470 and 1995 c 129 s 4 are each amended to read as follows:

Notwithstanding the current placement or listing of crimes in categories or classifications of prosecuting standards for deciding to prosecute under RCW 9.94A.411(2), any and all felony crimes involving any deadly weapon special verdict under RCW 9.94A.602, any deadly weapon enhancements under (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both, and any and all felony crimes as defined in (~~RCW 9.94A.510~~) section 11 (3)(f) or (4)(f) of this act, or both, which are excluded from the deadly weapon enhancements shall all be treated as crimes against a person and subject to the prosecuting standards for deciding to prosecute under RCW 9.94A.411(2) as crimes against persons.

Sec. 15. RCW 9.94A.475 and 1997 c 338 s 48 are each amended to read as follows:

Any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes shall be made and retained as public records if the felony crime involves:

- (1) Any violent offense as defined in this chapter;
- (2) Any most serious offense as defined in this chapter;
- (3) Any felony with a deadly weapon special verdict under RCW 9.94A.602;
- (4) Any felony with any deadly weapon enhancements under (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both; and/or
- (5) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

Sec. 16. RCW 9.94A.480 and 1997 c 338 s 49 are each amended to read as follows:

(1) A current, newly created or reworked judgment and sentence document for each felony sentencing shall record any and all recommended sentencing agreements or plea agreements and the sentences for any and all felony crimes kept as public records under RCW 9.94A.475 shall contain the clearly printed name and legal signature of the sentencing judge. The judgment and sentence document as defined in this section shall also provide additional space for the sentencing judge's

reasons for going either above or below the presumptive sentence range for any and all felony crimes covered as public records under RCW 9.94A.475. Both the sentencing judge and the prosecuting attorney's office shall each retain or receive a completed copy of each sentencing document as defined in this section for their own records.

(2) The sentencing guidelines commission shall be sent a completed copy of the judgment and sentence document upon conviction for each felony sentencing under subsection (1) of this section and shall compile a yearly and cumulative judicial record of each sentencing judge in regards to his or her sentencing practices for any and all felony crimes involving:

(a) Any violent offense as defined in this chapter;

(b) Any most serious offense as defined in this chapter;

(c) Any felony with any deadly weapon special verdict under RCW 9.94A.602;

(d) Any felony with any deadly weapon enhancements under ~~((RCW 9.94A.510))~~ section 11 (3) or (4) of this act, or both; and/or

(e) The felony crimes of possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first or second degree, and/or use of a machine gun in a felony.

(3) The sentencing guidelines commission shall compare each individual judge's sentencing practices to the standard or presumptive sentence range for any and all felony crimes listed in subsection (2) of this section for the appropriate offense level as defined in RCW 9.94A.515 or section 9 of this act, offender score as defined in RCW 9.94A.525, and any applicable deadly weapon enhancements as defined in ~~((RCW 9.94A.510))~~ section 11 (3) or (4) of this act, or both. These comparative records shall be retained and made available to the public for review in a current, newly created or reworked official published document by the sentencing guidelines commission.

(4) Any and all felony sentences which are either above or below the standard or presumptive sentence range in subsection (3) of this section shall also mark whether the prosecuting attorney in the case also recommended a similar sentence, if any, which was either above or below the presumptive sentence range and shall also indicate if the sentence was in conjunction with an approved alternative sentencing option including a first-time offender waiver, sex offender sentencing alternative, or other prescribed sentencing option.

(5) If any completed judgment and sentence document as defined in subsection (1) of this section is not sent to the sentencing guidelines commission as required in subsection (2) of this section, the sentencing guidelines commission shall have the authority and shall undertake reasonable and necessary steps to assure that all past, current, and future sentencing documents as defined in subsection (1) of this section are received by the sentencing guidelines commission.

Sec. 17. RCW 9.94A.505 and 2001 2nd sp.s. c 12 s 312 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

(i) Unless another term of confinement applies, the court shall impose a sentence within the standard sentence range established in RCW 9.94A.510 or section 8 of this act;

(ii) RCW 9.94A.700 and 9.94A.705, relating to community placement;

(iii) RCW 9.94A.710 and 9.94A.715, relating to community custody;

(iv) RCW 9.94A.545, relating to community custody for offenders whose term of confinement is one year or less;

(v) RCW 9.94A.570, relating to persistent offenders;

(vi) RCW 9.94A.540, relating to mandatory minimum terms;

(vii) RCW 9.94A.650, relating to the first-time offender waiver;

(viii) RCW 9.94A.660, relating to the drug offender sentencing alternative;

(ix) RCW 9.94A.670, relating to the special sex offender sentencing alternative;

(x) RCW 9.94A.712, relating to certain sex offenses;

(xi) RCW 9.94A.535, relating to exceptional sentences;

(xii) RCW 9.94A.589, relating to consecutive and concurrent sentences.

(b) If a standard sentence range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community service work; until July 1, 2000, a term of community supervision not to exceed one year and on and after July 1, 2000, a term of community custody not to exceed one year, subject to conditions and sanctions as authorized in RCW 9.94A.710 (2) and (3); and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) 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.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, and 9.94A.760.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community supervision, community placement, or community custody which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) 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.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter.

(9) The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment must be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

(10) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(11) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may, as part of any term of community supervision, community placement, or community custody, order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

Sec. 18. RCW 9.94A.530 and 2000 c 28 s 12 are each amended to read as follows:

(1) The intersection of the column defined by the offender score and the row defined by the offense seriousness score determines the standard sentence range (see RCW 9.94A.510, (Table 1) and section 8 of this act, (Table 3)). The additional time for deadly weapon findings or for those offenses enumerated in (~~RCW 9.94A.510~~) section 11(4) of this act that were committed in a state correctional facility or county jail shall be added to the entire standard sentence range. The court may impose any sentence within the range that it deems appropriate. All standard sentence ranges are expressed in terms of total confinement.

(2) In determining any sentence, the trial court may rely on no more information than is admitted by the plea agreement, or admitted, acknowledged, or proved in a trial or at the time of sentencing. Acknowledgement includes not objecting to information stated in the presentence reports. Where the defendant disputes material facts, the court must either not consider the fact or grant an evidentiary hearing on the point. The facts shall be deemed proved at the hearing

by a preponderance of the evidence. Facts that establish the elements of a more serious crime or additional crimes may not be used to go outside the standard sentence range except upon stipulation or when specifically provided for in RCW 9.94A.535(2) (d), (e), (g), and (h).

Sec. 19. RCW 9.94A.585 and 2000 c 28 s 10 are each amended to read as follows:

(1) A sentence within the standard sentence range, under RCW 9.94A.510 or section 8 of this act, for ~~((the))~~ an offense shall not be appealed. For purposes of this section, a sentence imposed on a first-time offender under RCW 9.94A.650 shall also be deemed to be within the standard sentence range for the offense and shall not be appealed.

(2) A sentence outside the standard sentence range for the offense is subject to appeal by the defendant or the state. The appeal shall be to the court of appeals in accordance with rules adopted by the supreme court.

(3) Pending review of the sentence, the sentencing court or the court of appeals may order the defendant confined or placed on conditional release, including bond.

(4) To reverse a sentence which is outside the standard sentence range, the reviewing court must find: (a) Either that the reasons supplied by the sentencing court are not supported by the record which was before the judge or that those reasons do not justify a sentence outside the standard sentence range for that offense; or (b) that the sentence imposed was clearly excessive or clearly too lenient.

(5) A review under this section shall be made solely upon the record that was before the sentencing court. Written briefs shall not be required and the review and decision shall be made in an expedited manner according to rules adopted by the supreme court.

(6) The court of appeals shall issue a written opinion in support of its decision whenever the judgment of the sentencing court is reversed and may issue written opinions in any other case where the court believes that a written opinion would provide guidance to sentencing courts and others in implementing this chapter and in developing a common law of sentencing within the state.

(7) The department may petition for a review of a sentence committing an offender to the custody or jurisdiction of the department. The review shall be limited to errors of law. Such petition shall be filed with the court of appeals no later than ninety days after the department has actual knowledge of terms of the sentence. The petition shall include a certification by the department that all reasonable efforts to resolve the dispute at the superior court level have been exhausted.

Sec. 20. RCW 9.94A.660 and 2001 c 10 s 4 are each amended to read as follows:

(1) An offender is eligible for the special drug offender sentencing alternative if:

(a) The offender is convicted of a felony that is not a violent offense or sex offense and the violation does not involve a sentence enhancement under (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act;

(b) The offender has no current or prior convictions for a sex offense or violent offense in this state, another state, or the United States;

(c) For a violation of the Uniform Controlled Substances Act under chapter 69.50 RCW or a criminal solicitation to commit such a violation under chapter 9A.28 RCW, the offense involved only a small quantity of the particular controlled substance as determined by the judge upon consideration of such factors as the weight, purity, packaging, sale price, and street value of the controlled substance; and

(d) The offender has not been found by the United States attorney general to be subject to a deportation detainer or order and does not become subject to a deportation order during the period of the sentence.

(2) If the standard sentence range is greater than one year and the sentencing court determines that the offender is eligible for this alternative and that the offender and the community will benefit from the use of the alternative, the judge may waive imposition of a sentence within the standard sentence range and impose a sentence that must include a period of total confinement in a state facility for one-half of the midpoint of the standard sentence range. During incarceration in the state facility, offenders sentenced under this subsection shall undergo a comprehensive substance abuse assessment and receive, within available resources, treatment services appropriate for the offender. The treatment services shall be designed by the division of alcohol and substance abuse of the department of social and health services, in cooperation with the department of corrections.

The court shall also impose:

(a) The remainder of the midpoint of the standard range as a term of community custody which must include appropriate substance abuse treatment in a program that has been approved by the division of alcohol and substance abuse of the department of social and health services;

(b) Crime-related prohibitions including a condition not to use illegal controlled substances;

(c) A requirement to submit to urinalysis or other testing to monitor that status; and

(d) A term of community custody pursuant to RCW 9.94A.715 to be imposed upon failure to complete or administrative termination from the special drug offender sentencing alternative program.

The court may prohibit the offender from using alcohol or controlled substances and may require that the monitoring for controlled substances be conducted by the department or by a treatment alternatives to street crime program or a comparable court or agency-referred program. The offender may be required to pay thirty dollars per month while on community custody to offset the cost of

monitoring. In addition, the court shall impose three or more of the following conditions:

- (i) Devote time to a specific employment or training;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer before any change in the offender's address or employment;
- (iii) Report as directed to a community corrections officer;
- (iv) Pay all court-ordered legal financial obligations;
- (v) Perform community service work;
- (vi) Stay out of areas designated by the sentencing court;
- (vii) Such other conditions as the court may require such as affirmative conditions.

(3) If the offender violates any of the sentence conditions in subsection (2) of this section or is found by the United States attorney general to be subject to a deportation order, a violation hearing shall be held by the department unless waived by the offender.

(a) If the department finds that conditions have been willfully violated, the offender may be reclassified to serve the remaining balance of the original sentence.

(b) If the department finds that the offender is subject to a valid deportation order, the department may administratively terminate the offender from the program and reclassify the offender to serve the remaining balance of the original sentence.

(4) The department shall determine the rules for calculating the value of a day fine based on the offender's income and reasonable obligations which the offender has for the support of the offender and any dependents. These rules shall be developed in consultation with the administrator for the courts, the office of financial management, and the commission.

(5) An offender who fails to complete the special drug offender sentencing alternative program or who is administratively terminated from the program shall be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing court and shall be subject to all rules relating to earned release time. An offender who violates any conditions of supervision as defined by the department shall be sanctioned. Sanctions may include, but are not limited to, reclassifying the offender to serve the unexpired term of his or her sentence as ordered by the sentencing court. If an offender is reclassified to serve the unexpired term of his or her sentence, the offender shall be subject to all rules relating to earned release time.

Sec. 21. RCW 9.94A.728 and 2000 c 28 s 28 are each amended to read as follows:

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

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time. An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under (~~RCW 9.94A.510~~) section 11 (3) or (4) of this act, or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, the aggregate earned release time may not exceed fifteen percent of the sentence. In no other case shall the aggregate earned release time exceed one-third of the total sentence;

(2)(a) A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, vehicular homicide, vehicular assault, assault of a child in the second degree, any crime against persons where it is determined in accordance with RCW 9.94A.602 that the offender 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 before July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(b) A person convicted of a sex offense, a violent offense, any crime against persons under RCW 9.94A.411(2), or a felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 2000, may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned release time pursuant to subsection (1) of this section;

(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;

(4)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious enough to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is physically incapacitated due to age or the medical condition; and

(iii) Granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(5) 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;

(6) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community;

(7) The governor may pardon any offender;

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

(9) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870.

Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540, however persistent offenders are not eligible for extraordinary medical placement.

Sec. 22. RCW 9.94A.850 and 2000 c 28 s 41 are each amended to read as follows:

(1) A sentencing guidelines commission is established as an agency of state government.

(2) The legislature finds that the commission, having accomplished its original statutory directive to implement this chapter, and having expertise in sentencing practice and policies, shall:

(a) Evaluate state sentencing policy, to include whether the sentencing ranges and standards are consistent with and further:

(i) The purposes of this chapter as defined in RCW 9.94A.010; and

(ii) The intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender.

The commission shall provide the governor and the legislature with its evaluation and recommendations under this subsection not later than December 1, 1996, and every two years thereafter;

(b) Recommend to the legislature revisions or modifications to the standard sentence ranges, state sentencing policy, prosecuting standards, and other standards. If implementation of the revisions or modifications would result in exceeding the capacity of correctional facilities, then the commission shall accompany its recommendation with an additional list of standard sentence ranges which are consistent with correction capacity;

(c) Study the existing criminal code and from time to time make recommendations to the legislature for modification;

(d)(i) Serve as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices; (ii) develop and maintain a computerized adult and juvenile sentencing information system by individual superior court judge consisting of offender, offense, history, and sentence information entered from judgment and sentence forms for all adult felons; and (iii) conduct ongoing research regarding adult and juvenile sentencing guidelines, use of total confinement and alternatives to total confinement, plea bargaining, and other matters relating to the improvement of the adult criminal justice system and the juvenile justice system;

(e) Assume the powers and duties of the juvenile disposition standards commission after June 30, 1996;

(f) Evaluate the effectiveness of existing disposition standards and related statutes in implementing policies set forth in RCW 13.40.010 generally, specifically review the guidelines relating to the confinement of minor and first-time offenders as well as the use of diversion, and review the application of current and proposed juvenile sentencing standards and guidelines for potential adverse impacts on the sentencing outcomes of racial and ethnic minority youth;

(g) Solicit the comments and suggestions of the juvenile justice community concerning disposition standards, and make recommendations to the legislature regarding revisions or modifications of the standards. The evaluations shall be submitted to the legislature on December 1 of each odd-numbered year. The department of social and health services shall provide the commission with available data concerning the implementation of the disposition standards and related statutes and their effect on the performance of the department's responsibilities relating to juvenile offenders, and with recommendations for modification of the disposition standards. The office of the administrator for the courts shall provide the commission with available data on diversion and dispositions of juvenile offenders under chapter 13.40 RCW; and

(h) Not later than December 1, 1997, and at least every two years thereafter, based on available information, report to the governor and the legislature on:

(i) Racial disproportionality in juvenile and adult sentencing;

(ii) The capacity of state and local juvenile and adult facilities and resources; and

(iii) Recidivism information on adult and juvenile offenders.

(3) Each of the commission's recommended standard sentence ranges shall include one or more of the following: Total confinement, partial confinement, community supervision, community service, and a fine.

(4) The standard sentence ranges of total and partial confinement under this chapter, except as provided in section 8 of this act, are subject to the following limitations:

(a) If the maximum term in the range is one year or less, the minimum term in the range shall be no less than one-third of the maximum term in the range, except that if the maximum term in the range is ninety days or less, the minimum term may be less than one-third of the maximum;

(b) If the maximum term in the range is greater than one year, the minimum term in the range shall be no less than seventy-five percent of the maximum term in the range, except that for murder in the second degree in seriousness level XIV under RCW 9.94A.510, the minimum term in the range shall be no less than fifty percent of the maximum term in the range; and

(c) The maximum term of confinement in a range may not exceed the statutory maximum for the crime as provided in RCW 9A.20.021.

(5)(a) Not later than December 31, 1999, the commission shall propose to the legislature the initial community custody ranges to be included in sentences under RCW 9.94A.715 for crimes committed on or after July 1, 2000. Not later than December 31 of each year, the commission may propose modifications to the ranges. The ranges shall be based on the principles in RCW 9.94A.010, and shall take into account the funds available to the department for community custody. The minimum term in each range shall not be less than one-half of the maximum term.

(b) The legislature may, by enactment of a legislative bill, adopt or modify the community custody ranges proposed by the commission. If the legislature fails to adopt or modify the initial ranges in its next regular session after they are proposed, the proposed ranges shall take effect without legislative approval for crimes committed on or after July 1, 2000.

(c) When the commission proposes modifications to ranges pursuant to this subsection, the legislature may, by enactment of a bill, adopt or modify the ranges proposed by the commission for crimes committed on or after July 1 of the year after they were proposed. Unless the legislature adopts or modifies the commission's proposal in its next regular session, the proposed ranges shall not take effect.

(6) The commission shall exercise its duties under this section in conformity with chapter 34.05 RCW.

Sec. 23. RCW 10.01.210 and 1995 c 129 s 18 are each amended to read as follows:

Any and all law enforcement agencies and personnel, criminal justice attorneys, sentencing judges, and state and local correctional facilities and personnel may, but are not required to, give any and all offenders either written or oral notice, or both, of the sanctions imposed and criminal justice changes regarding armed offenders, including but not limited to the subjects of:

(1) Felony crimes involving any deadly weapon special verdict under RCW 9.94A.602;

(2) Any and all deadly weapon enhancements under ~~((RCW 9.94A.510))~~ section 11 (3) or (4) of this act, or both, as well as any federal firearm, ammunition, or other deadly weapon enhancements;

(3) Any and all felony crimes requiring the possession, display, or use of any deadly weapon as well as the many increased penalties for these crimes including the creation of theft of a firearm and possessing a stolen firearm;

(4) New prosecuting standards established for filing charges for all crimes involving any deadly weapons;

(5) Removal of good time for any and all deadly weapon enhancements; and

(6) Providing the death penalty for those who commit first degree murder: (a) To join, maintain, or advance membership in an identifiable group; (b) as part of a drive-by shooting; or (c) to avoid prosecution as a persistent offender as defined in RCW 9.94A.030.

NEW SECTION. Sec. 24. The Washington state institute for public policy shall evaluate the effectiveness of the drug offense sentencing grid in reducing recidivism and its financial impact. The Washington state institute for public policy shall present a preliminary report to the legislature by December 1, 2007, and shall present a final report regarding long-term recidivism and its financial impacts to the legislature by December 1, 2008.

NEW SECTION. Sec. 25. A new section is added to chapter 9.94A RCW to read as follows:

The Washington state institute for public policy shall by March 1, 2003, report on the cost-effectiveness of existing drug courts in Washington and their impacts on reducing recidivism.

NEW SECTION. Sec. 26. Nothing in this act creates an entitlement for a criminal defendant to any specific sanction, alternative, sentence option, or substance abuse treatment.

NEW SECTION. Sec. 27. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2002, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 28. 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. 29. Sections 2 and 3 of this act take effect July 1, 2002, and apply to crimes committed on or after July 1, 2002.

NEW SECTION. Sec. 30. Section 2 of this act expires July 1, 2004.

NEW SECTION. Sec. 31. Sections 7 through 11 and 14 through 23 of this act take effect July 1, 2004, and apply to crimes committed on or after July 1, 2004.

NEW SECTION. Sec. 32. Sections 1, 4 through 6, 12, 13, 26, and 27 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed the House March 14, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor April 1, 2002.

Filed in Office of Secretary of State April 1, 2002.

CHAPTER 291

[Second Substitute House Bill 1646]

ALTERNATIVE EDUCATIONAL SERVICE PROVIDERS—NATIONAL GUARD YOUTH CHALLENGE PROGRAM

AN ACT Relating to alternative educational service providers; amending RCW 28A.150.305 and 28A.305.170; and adding a new section to chapter 28A.150 RCW.

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

Sec. 1. RCW 28A.150.305 and 1997 c 265 s 6 are each amended to read as follows:

(1) The board of directors of school districts may contract with alternative educational service providers for eligible students. Alternative educational service providers that the school district may contract with include, but are not limited to:

(a) Other schools;

(b) Alternative education programs not operated by the school district;

(c) Education centers;

(d) Skills centers;

(e) The Washington national guard youth challenge program;

(f) Dropout prevention programs; or

((f)) (g) Other public or private organizations, excluding sectarian or religious organizations.

(2) Eligible students include students who are likely to be expelled or who are enrolled in the school district but have been suspended, are academically at risk, or who have been subject to repeated disciplinary actions due to behavioral problems.

(3) If a school district board of directors chooses to initiate specialized programs for students at risk of expulsion or who are failing academically by contracting out with alternative educational service providers identified in subsection (1) of this section, the school district board of directors and the organization must specify the specific learning standards that students are expected to achieve. Placement of the student shall be jointly determined by the school district, the student's parent or legal guardian, and the alternative educational service provider.

(4) For the purpose of this section, the superintendent of public instruction shall adopt rules for reporting and documenting enrollment. Students may reenter at the grade level appropriate to the student's ability. Students who are sixteen years of age or older may take the GED test.

(5) The board of directors of school districts may require that students who would otherwise be suspended or expelled attend schools or programs listed in subsection (1) of this section as a condition of continued enrollment in the school district.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.150 RCW to read as follows:

Basic and nonbasic education funding, including applicable vocational entitlements and special education program money, generated under this chapter and under state appropriations acts shall be allocated directly to the military department for a national guard youth challenge program for students earning high school graduation credit under RCW 28A.305.170. Funding shall be provided based on statewide average rates for basic education, special education, categorical, and block grant programs as determined by the office of the superintendent of public instruction. The monthly full-time equivalent enrollment reported for students enrolled in the national guard youth challenge program shall be based on one full-time equivalent for every one hundred student hours of scheduled instruction eligible for high school graduation credit. The office of the superintendent of public instruction, in consultation with the military department, shall adopt such rules as are necessary to implement this section.

Sec. 3. RCW 28A.305.170 and 1975 1st ex.s. c 262 s 1 are each amended to read as follows:

(1) In addition to any other powers and duties as provided by law, the state board of education shall adopt rules (~~and regulations~~) governing and authorizing the acceptance of national guard high school career training and the national guard youth challenge program in lieu of either required high school credits or elective high school credits.

(2) With the exception of students enrolled in the national guard youth challenge program, students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program.

(3) The board shall adopt rules to ensure that students who successfully complete the national guard youth challenge program are granted an appropriate number of high school credits, based on the students' levels of academic proficiency as measured by the program.

Passed the House March 14, 2002.

Passed the Senate March 14, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 292

[Engrossed Senate Bill 5626]

VETERANS

AN ACT Relating to the definition of veteran; amending RCW 41.04.005, 46.20.027, 41.04.010, 72.36.035, 73.04.090, 73.08.010, 73.08.060, 73.08.070, and 73.24.030; adding a new section to chapter 41.04 RCW; and creating a new section.

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

Sec. 1. RCW 41.04.005 and 1999 c 65 s 1 are each amended to read as follows:

(1) As used in RCW 41.04.005, 41.16.220, ~~((and)) 41.20.050, 41.40.170, and 28B.15.380~~ "veteran" includes every person, who at the time he or she seeks the benefits of RCW 41.04.005, ~~((41.04.010;)) 41.16.220, 41.20.050, 41.40.170, ((73.04.110, or 73.08.080)) or 28B.15.380~~ has received an honorable discharge or received a discharge for physical reasons with an honorable record and who meets at least one of the following criteria:

(a) The person has served between World War I and World War II or during any period of war, as defined in subsection (2) of this section, as either:

(i) A member in any branch of the armed forces of the United States;

(ii) A member of the women's air forces service pilots;

(iii) A U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the war shipping administration, the office of defense transportation, or their agents, from December 7, 1941, ~~((to))~~ through December 31, 1946; or

(iv) A civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, ~~((to))~~ through December 31, 1946; or

(b) The person has received the armed forces expeditionary medal, or marine corps and navy expeditionary medal, for opposed action on foreign soil, for service:

(i) In any branch of the armed forces of the United States; or

(ii) As a member of the women's air forces service pilots.

(2) A "period of war" includes:

(a) World War I;

(b) World War II;

- (c) The Korean conflict;
- (d) The Vietnam era, which was the period beginning August 5, 1964, and ending on May 7, 1975;
- (e) The Persian Gulf War, which was the period beginning August 2, 1990, and ending on the date prescribed by presidential proclamation or law;
- (f) The period beginning on the date of any future declaration of war by the congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the congress; and
- (g) The following armed conflicts, if the participant was awarded the respective campaign badge or medal: The crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor.

NEW SECTION. **Sec. 2.** A new section is added to chapter 41.04 RCW to read as follows:

"Veteran" includes every person, who at the time he or she seeks the benefits of RCW 72.36.030, 41.04.010, 73.04.090, 73.04.110, 73.08.010, 73.08.060, 73.08.070, or 73.08.080 has received an honorable discharge or received a discharge for medical reasons with an honorable record, where applicable, and who has served in at least one of the following capacities:

- (1) As a member in any branch of the armed forces of the United States, including the national guard and armed forces reserves, and has fulfilled his or her initial military service obligation;
- (2) As a member of the women's air forces service pilots;
- (3) As a member of the armed forces reserves, national guard, or coast guard, and has been called into federal service by a presidential select reserve call up for at least one hundred eighty cumulative days;
- (4) As a civil service crewmember with service aboard a U.S. army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or
- (5) As a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945.

Sec. 3. RCW 46.20.027 and 1999 c 199 s 1 are each amended to read as follows:

A Washington state motor vehicle driver's license issued to any (~~person serving in the armed forces of the United States;~~) service member if valid and in force and effect while such person is serving in the armed forces, shall remain in full force and effect so long as such service continues unless the same is sooner suspended, canceled, or revoked for cause as provided by law and for not to exceed ninety days following the date on which the holder of such driver's license is honorably separated from service in the armed forces of the United States. A Washington state driver's license issued to the spouse or dependent child of such service member likewise remains in full force and effect if the person is residing with the service member.

For purposes of this section, "service member" means every person serving in the armed forces whose branch of service as of the date of application for the driver's license is included in the definition of veteran pursuant to section 2 of this act or the person will meet the definition of veteran at the time of discharge.

Sec. 4. RCW 41.04.010 and 2000 c 140 s 1 are each amended to read as follows:

In all competitive examinations, unless otherwise provided in this section, to determine the qualifications of applicants for public offices, positions or employment, the state, and all of its political subdivisions and all municipal corporations, shall give a scoring criteria status to all veterans as defined in ((RCW 41.04.005)) section 2 of this act, by adding to the passing mark, grade or rating only, based upon a possible rating of one hundred points as perfect a percentage in accordance with the following:

(1) Ten percent to a veteran who served during a period of war or in an armed conflict as defined in RCW 41.04.005 and does not receive military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(2) Five percent to a veteran who did not serve during a period of war or in an armed conflict as defined in RCW 41.04.005 or is receiving military retirement. The percentage shall be added to the passing mark, grade, or rating of competitive examinations until the veteran's first appointment. The percentage shall not be utilized in promotional examinations;

(3) Five percent to a veteran who was called to active military service for one or more years from employment with the state or any of its political subdivisions or municipal corporations. The percentage shall be added to the first promotional examination only;

(4) All veterans' scoring criteria specified in subsections (1), (2), and (3) of this section must be claimed within fifteen years of the date of release from active military service. This period may be extended for valid and extenuating reasons to include but not be limited to:

(a) Documented medical reasons beyond control of the veteran;

(b) United States department of veterans' affairs documented disabled veteran;

or

(c) Any veteran who has his or her employment terminated through no fault or action of his or her own and whose livelihood is adversely affected may seek scoring criteria employment consideration under this section.

Sec. 5. RCW 72.36.035 and 2001 2nd sp.s. c 4 s 2 are each amended to read as follows:

For purposes of this chapter, unless the context clearly indicates otherwise:

(1) "Actual bona fide residents of this state" means persons who have a domicile in the state of Washington immediately prior to application for admission to a state veterans' home.

(2) "Department" means the Washington state department of veterans affairs.

(3) "Domicile" means a person's true, fixed, and permanent home and place of habitation, and shall be the place where the person intends to remain, and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

(4) "State veterans' homes" means the Washington soldiers' home and colony in Orting, the Washington veterans' home in Retsil, and the eastern Washington veterans' home.

(5) "Veteran" has the same meaning established in ~~((RCW 41.04.005))~~ section 2 of this act.

Sec. 6. RCW 73.04.090 and 1991 c 240 s 3 are each amended to read as follows:

All benefits, advantages or emoluments, not available upon equal terms to all citizens, including but not being limited to preferred rights to public employment, civil service preference, exemption from license fees or other impositions, preference in purchasing state property ~~((and special pension or retirement rights))~~, which by any law of this state have been made specially available to war veterans or to persons who have served in the armed forces or defense forces of the United States, shall be available only to persons who have been subject to full and continuous military control and discipline as actual members of the federal armed forces or to persons defined as "veterans" in ~~((RCW 41.04.005))~~ section 2 of this act. Service with such forces in a civilian capacity, or in any capacity wherein a person retained the right to terminate his or her service or to refuse full obedience to military superiors, shall not be the basis for eligibility for such benefits. Service in any of the following shall not for purposes of this section be considered as military service: The office of emergency services or any component thereof; the American Red Cross; the United States Coast Guard Auxiliary; United States Coast Guard Reserve Temporary; United States Coast and Geodetic Survey; American Field Service; Civil Air Patrol; Cadet Nurse Corps, and any other similar organization.

Sec. 7. RCW 73.08.010 and 1983 c 295 s 1 are each amended to read as follows:

For the relief of indigent and suffering veterans as defined in ~~((RCW 41.04.005))~~ section 2 of this act and their families or the families of those deceased, who need assistance in any city, town or precinct in this state, the legislative authority of the county in which the city, town or precinct is situated shall provide such sum or sums of money as may be necessary, to be drawn upon by the commander and quartermaster, or commander and adjutant or commander and service officer of any post, camp or chapter of any national organization of veterans now, or which may hereafter be, chartered by an act of congress in the city or town upon recommendation of the relief committee of said post, camp or chapter: PROVIDED, Said veteran or the families of those deceased are and have been residents of the state for at least twelve months, and the orders of said

commander and quartermaster, or commander and adjutant or commander and service officer shall be the proper voucher for the expenditure of said sum or sums of money.

Sec. 8. RCW 73.08.060 and 1983 c 295 s 4 are each amended to read as follows:

County legislative authorities are hereby prohibited from sending indigent or disabled veterans as defined in (~~RCW 41.04.005~~) section 2 of this act or their families or the families of the deceased to any almshouse (or orphan asylum) without the concurrence and consent of the commander and relief committee of the post, camp or chapter of any national organization of veterans now, or which may hereafter be, chartered by an act of congress as provided in RCW 73.08.010 and 73.08.030. Indigent veterans shall, whenever practicable, be provided for and relieved at their homes in such city, town or precinct in which they shall have a residence, in the manner provided in RCW 73.08.010 and 73.08.030. Indigent or disabled veterans as defined in (~~RCW 41.04.005~~) section 2 of this act, who are not insane and have no families or friends with whom they may be domiciled, may be sent to any soldiers' home.

Sec. 9. RCW 73.08.070 and 1997 c 286 s 1 are each amended to read as follows:

It shall be the duty of the legislative authority in each of the counties in this state to designate some proper authority other than the one designated by law for the care of paupers and the custody of criminals who shall cause to be interred at the expense of the county the body of any honorably discharged veterans as defined in (~~RCW 41.04.005~~) section 2 of this act and the wives, husbands, minor children, widows or widowers of such veterans, who shall hereafter die without leaving means sufficient to defray funeral expenses; and when requested so to do by the commanding officer of any post, camp or chapter of any national organization of veterans now, or which may hereafter be, chartered by an act of congress or the relief committee of any such posts, camps or chapters: PROVIDED, HOWEVER, That such interment shall not cost more than the limit established by the county legislative authority nor less than three hundred dollars. If the deceased has relatives or friends who desire to conduct the burial of such deceased person, then upon request of said commander or relief committee a sum not to exceed the limit established by the county legislative authority nor less than three hundred dollars shall be paid to said relatives or friends by the county treasurer, upon due proof of the death and burial of any person provided for by this section and proof of expenses incurred.

Sec. 10. RCW 73.24.030 and 1977 c 3I s 4 are each amended to read as follows:

The said plot shall be available, to the extent such space is available, without charge or cost for the burial of persons who have served in the army, navy, or marine corps in the United States, in the Spanish-American war, Philippine

insurrection, or the Chinese Relief Expedition, or who served in any said branches of said service at any time between April 21, 1898 and July 4, 1902 and any veteran as defined in (~~RCW 41.04.005~~) section 2 of this act.

NEW SECTION. Sec. 11. The higher education coordinating board and the joint committee on pension policy shall each conduct a study as to the eligibility of veterans for benefits provided, respectively, by higher education and the state retirement system if the definition of veteran is modified in the manner provided in section 2 of this act and report their findings to the legislature by December 1, 2002.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 293

[Substitute Senate Bill 5097]

POW/MIA FLAG—DISPLAY

AN ACT Relating to displaying flags; and adding a new section to chapter 1.20 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 1.20 RCW to read as follows:

(1) Each public entity shall display the national league of families' POW/MIA flag along with the flag of the United States and the flag of the state upon or near the principal building of the public entity on the following days: (a) Armed Forces Day on the third Saturday in May; (b) Memorial Day on the last Monday in May; (c) Flag Day on June 14; (d) Independence Day on July 4; (e) National POW/MIA Recognition Day; and (f) Veterans' Day on November 11. If the designated day falls on a Saturday or Sunday, then the POW/MIA flag will be displayed on the preceding Friday.

(2) The governor's veterans affairs advisory committee shall provide information to public entities regarding the purchase and display of the POW/MIA flag upon request.

(3) As used in this section, "public entity" means every state agency, including each institution of higher education, and every county, city, and town.

Passed the Senate January 26, 2002.

Passed the House March 14, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 294

[Substitute House Bill 2060]
LOW-INCOME HOUSING PROJECTS

AN ACT Relating to funds for operating and maintenance of low-income housing projects and for innovative housing demonstration projects; amending RCW 36.18.010, 18.85.540, and 43.185.050; adding a new section to chapter 36.22 RCW; adding a new section to chapter 43.330 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature recognizes housing affordability has become a significant problem for a large portion of society in many parts of Washington state in recent years. The state has traditionally focused its resources on housing for low-income populations. Additional funding resources are needed for building operation and maintenance activities for housing projects affordable to extremely low-income people, for example farmworkers or people with developmental disabilities. Affordable rents for extremely low-income people are not sufficient to cover the cost of building operations and maintenance. In addition resources are needed at the local level to assist in development and preservation of affordable low-income housing to address critical local housing needs.

NEW SECTION. **Sec. 2.** A new section is added to chapter 36.22 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, a surcharge of ten dollars per instrument shall be charged by the county auditor for each document recorded, which will be in addition to any other charge authorized by law. The auditor may retain up to five percent of these funds collected to administer the collection of these funds. Of the remaining funds, forty percent of the revenue generated through this surcharge will be transmitted monthly to the state treasurer who will deposit the funds into the Washington housing trust account. The office of community development of the department of community, trade, and economic development will develop guidelines for the use of these funds to support building operation and maintenance costs of housing projects or units within housing projects that are affordable to extremely low-income persons with incomes at or below thirty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses. Sixty percent of the revenue generated by this surcharge will be retained by the county and be deposited into a fund that must be used by the county and its cities and towns for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income. The portion of the surcharge retained by a county shall be allocated to very low-income housing projects or units within such housing projects in the county and the cities within a county according to an interlocal agreement between the county and the cities within the county, consistent with countywide and local housing needs and policies. The funds generated with this surcharge shall not be used for construction of new housing if at any time the vacancy rate for available low-income housing within the county rises above ten percent. The vacancy rate for each county shall

be developed using the state low-income vacancy rate standard developed under subsection (3) of this section. Permissible uses of these local funds are limited to:

(a) Acquisition, construction, or rehabilitation of housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income;

(b) Supporting building operation and maintenance costs of housing projects or units within housing projects built with housing trust funds, that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, and that require a supplement to rent income to cover ongoing operating expenses;

(c) Rental assistance vouchers for housing projects or units within housing projects that are affordable to very low-income persons with incomes at or below fifty percent of the area median income, to be administered by a local public housing authority or other local organization that has an existing rental assistance voucher program, consistent with the United States department of housing and urban development's section 8 rental assistance voucher program standards; and

(d) Operating costs for emergency shelters and licensed overnight youth shelters.

(2) The surcharge imposed in this section does not apply to assignments or substitutions of previously recorded deeds of trust.

(3) The real estate research center at Washington State University shall develop a vacancy rate standard for low-income housing in the state as described in RCW 18.85.540(1)(i).

Sec. 3. RCW 36.18.010 and 1999 c 233 s 3 are each amended to read as follows:

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

For recording instruments, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar. The fee for recording multiple transactions contained in one instrument will be calculated for each transaction requiring separate indexing as required under RCW 65.04.050 as follows: The fee for each title or transaction is the same fee as the first page of any additional recorded document; the fee for additional pages is the same fee as for any additional pages for any recorded document; the fee for the additional pages may be collected only once and may not be collected for each title or transaction;

For preparing and certifying copies, for the first page eight and one-half by fourteen inches or less, three dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For preparing noncertified copies, for each page eight and one-half by fourteen inches or less, one dollar;

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

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

For searching records per hour, eight dollars;

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

For recording of miscellaneous records not listed above, for the first page eight and one-half by fourteen inches or less, five dollars; for each additional page eight and one-half by fourteen inches or less, one dollar;

For modernization and improvement of the recording and indexing system, a surcharge as provided in RCW 36.22.170.

For recording an emergency nonstandard document as provided in RCW 65.04.047, fifty dollars, in addition to all other applicable recording fees.

For recording instruments, a surcharge as provided in section 2 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 43.330 RCW to read as follows:

The office of community development of the department of community, trade, and economic development is directed to conduct a statewide housing market analysis by region. The purpose of the analysis is to identify areas of greatest need for the appropriate investment of state affordable housing funds, using vacancy data and other appropriate measures of need for low-income housing. The analysis shall include the number and types of projects that counties have developed using the funds collected under this act. The analysis shall be completed by September 2003, and updated every two years thereafter.

Sec. 5. RCW 18.85.540 and 1999 c 192 s 3 are each amended to read as follows:

(1) The purpose of a real estate research center in Washington state is to provide credible research, value-added information, education services, and project-oriented research to real estate licensees, real estate consumers, real estate service providers, institutional customers, public agencies, and communities in Washington state and the Pacific Northwest region. The center may:

(a) Conduct studies and research on affordable housing and strategies to meet the affordable housing needs of the state;

(b) Conduct studies in all areas directly or indirectly related to real estate and urban or rural economics and economically isolated communities;

(c) Disseminate findings and results of real estate research conducted at or by the center or elsewhere, using a variety of dissemination media;

(d) Supply research results and educational expertise to the Washington state real estate commission to support its regulatory functions, as requested;

(e) Prepare information of interest to real estate consumers and make the information available to the general public, universities, or colleges, and appropriate state agencies;

(f) Encourage economic growth and development within the state of Washington;

(g) Support the professional development and continuing education of real estate licensees in Washington; ~~((and))~~

(h) Study and recommend changes in state statutes relating to real estate; and

(i) Develop a vacancy rate standard for low-income housing in the state.

(2) The director shall establish a memorandum of understanding with an institution of higher learning that establishes a real estate research center for the purposes under subsection (1) of this section.

(3) This section expires September 30, 2005.

Sec. 6. RCW 43.185.050 and 1994 c 160 s 1 are each amended to read as follows:

(1) The department shall use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless, including emergency shelters and overnight youth shelters;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2)(a), (i), and (j) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2)(b) and (c) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the housing assistance program.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 295

[Substitute House Bill 2160]

CHARITABLE GIFT ANNUITY BUSINESSES—SEPARATE RESERVE FUND

AN ACT Relating to the separate reserve fund maintained by a charitable gift annuity business; and amending RCW 48.38.020.

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

Sec. 1. RCW 48.38.020 and 1998 c 284 s 2 are each amended to read as follows:

(1) Upon granting to such insurer or institution under RCW 48.38.010 a certificate of exemption to conduct a charitable gift annuity business, the insurance commissioner shall require it to establish and maintain a separate reserve fund adequate to meet the future payments under its charitable gift annuity contracts.

(2) The assets of the separate reserve fund:

(a) Shall be held legally and physically segregated from the other assets of the certificate of exemption holder;

(b) Shall be invested in the same manner that persons of reasonable prudence, discretion, and intelligence exercise in the management of a like enterprise, not in

regard to speculating but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Investments shall be of sufficient value, liquidity, and diversity to assure the insurer or institution's ability to meet its outstanding obligations; and

(c) Shall not be liable for any debts of the insurer or institution holding a certificate of exemption under this chapter, other than those incurred pursuant to the issuance of charitable gift annuities.

(3) The amount of the separate reserve fund shall be:

(a) For contracts issued prior to July 1, 1998, not less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table with six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity contracts;

(b) For contracts issued on or after July 1, 1998, in an amount not less than the aggregate reserves calculated according to the standards set forth in RCW 48.74.030 for other annuities with no cash settlement options;

(c) Plus a surplus of ten percent of the combined amounts under (a) and (b) of this subsection.

(4) The general assets of the insurer or institution holding a certificate of exemption under this chapter shall be liable for the payment of annuities to the extent that the separate reserve fund is inadequate.

(5) For any failure on its part to establish and maintain the separate reserve fund, the insurance commissioner shall revoke its certificate of exemption.

(6) If an institution holding a certificate of exemption under RCW 48.38.010 has purchased a single premium life annuity that pays the entire amount stipulated in the gift annuity agreement or agreements from an insurer (a) holding a certificate of authority under chapter 48.05 RCW, (b) licensed in the state in which the institution has its principle office, and (c) licensed in the state in which the single premium life annuity is issued, then in determining the minimum reserve fund that must be maintained under this section, a deduction shall be allowed from the minimum reserve fund in an amount not exceeding the reserve fund amount required for the annuity or annuities for which the single premium life annuity is purchased, subject to the following conditions:

(i) The institution has filed with the commissioner a copy of the single premium life annuity purchased and specifying which charitable gift annuity or annuities are being insured; and

(ii) The institution has entered into a written agreement with the annuitant and the insurer issuing the single premium life annuity providing that if for any reason the institution is unable to continue making the annuity payments required by its annuity agreements, the annuitants shall receive payments directly from the insurer and the insurer shall be credited with all of these direct payments in the accounts between the insurer and the institution.

Passed the House March 9, 2002.
Passed the Senate March 2, 2002.
Approved by the Governor April 2, 2002.
Filed in Office of Secretary of State April 2, 2002.

CHAPTER 296

[House Bill 2299]

PERSON--DEFINITION

AN ACT Relating to defining person under the business corporation act, uniform limited partnership act, and limited liability company act; and amending RCW 23B.01.400, 25.10.010, and 25.15.005.

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

Sec. 1. RCW 23B.01.400 and 2000 c 168 s 1 are each amended to read as follows:

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

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(5) "Deliver" includes (a) mailing and (b) for purposes of delivering a demand, consent, or waiver to the corporation or one of its officers, transmission by facsimile equipment.

(6) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(8) "Electronic transmission" or "electronically transmitted" means any process of electronic communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of the transmitted information by the recipient.

(9) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(10) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, profit and not-for-profit unincorporated association, business trust, estate, partnership, trust, and two or more persons having a joint or common economic interest, and the state, United States, and a foreign government.

(11) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(12) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(13) "Governmental subdivision" includes authority, county, district, and municipality.

(14) "Includes" denotes a partial definition.

(15) "Individual" includes the estate of an incompetent or deceased individual.

(16) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(17) "Means" denotes an exhaustive definition.

(18) "Notice" has the meaning provided in RCW 23B.01.410.

(19) "Person" (~~includes an individual and an entity~~) means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(20) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(21) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(22) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(23) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(24) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(25) "Shares" means the units into which the proprietary interests in a corporation are divided.

(26) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(27) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(28) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(29) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(30) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

Sec. 2. RCW 25.10.010 and 1987 c 55 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Certificate of limited partnership" means the certificate referred to in RCW 25.10.080, and the certificate as amended or restated.

(2) "Contribution" means any cash, property, services rendered, or a promissory note or other binding obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.

(3) "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in RCW 25.10.230.

(4) "Foreign limited partnership" means a partnership formed under laws other than the laws of this state and having as partners one or more general partners and one or more limited partners.

(5) "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and named in the certificate of limited partnership as a general partner.

(6) "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.

(7) "Limited partnership" and "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(8) "Partner" means a limited or general partner.

(9) "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.

(10) "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.

(11) "Person" means (~~(a natural person, partnership, limited partnership (domestic or foreign), trust, estate, association, or corporation))~~ an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(12) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date.

Sec. 3. RCW 25.15.005 and 2000 c 169 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Certificate of formation" means the certificate referred to in RCW 25.15.070, and the certificate as amended.

(2) "Event of dissociation" means an event that causes a person to cease to be a member as provided in RCW 25.15.130.

(3) "Foreign limited liability company" means an entity that is formed under:

(a) The limited liability company laws of any state other than this state; or

(b) The laws of any foreign country that is: (i) An unincorporated association, (ii) formed under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity, and (iii) not required, in order to transact business or conduct affairs in this state, to be registered or qualified under Title 23B or 24 RCW, or any other chapter of the Revised Code of Washington authorizing the formation of a domestic entity and the registration or qualification in this state of similar entities formed under the laws of a jurisdiction other than this state.

(4) "Limited liability company" and "domestic limited liability company" means a limited liability company having one or more members that is organized and existing under this chapter.

(5) "Limited liability company agreement" means any written agreement of the members, or any written statement of the sole member, as to the affairs of a

limited liability company and the conduct of its business which is binding upon the member or members.

(6) "Limited liability company interest" means a member's share of the profits and losses of a limited liability company and a member's right to receive distributions of the limited liability company's assets.

(7) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its certificate of formation that it is to be managed by managers, the person, or persons designated in accordance with RCW 25.15.150(2).

(8) "Member" means a person who has been admitted to a limited liability company as a member as provided in RCW 25.15.115 and who has not been dissociated from the limited liability company.

(9) "Person" means ~~((a natural person, partnership (whether general or limited and whether domestic or foreign), limited liability company, foreign limited liability company, trust, estate, association, corporation, custodian, nominee, or any other individual or entity in its own or any representative capacity))~~ an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(10) "Professional limited liability company" means a limited liability company which is organized for the purpose of rendering professional service and whose certificate of formation sets forth that it is a professional limited liability company subject to RCW 25.15.045.

(11) "Professional service" means the same as defined under RCW 18.100.030.

(12) "State" means the District of Columbia or the Commonwealth of Puerto Rico or any state, territory, possession, or other jurisdiction of the United States other than the state of Washington.

Passed the House January 28, 2002.

Passed the Senate March 2, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 297

[Substitute House Bill 2301]

BUSINESS CORPORATION ACT

AN ACT Relating to authorizing electronic notice and other communications under the Washington business corporation act; and amending RCW 23B.01.200, 23B.01.202, 23B.01.220, 23B.01.230, 23B.01.240, 23B.01.250, 23B.01.260, 23B.01.270, 23B.01.400, 23B.01.410, 23B.02.020, 23B.02.032, 23B.02.050, 23B.04.035, 23B.05.010, 23B.05.020, 23B.06.030, 23B.06.260, 23B.06.300, 23B.07.010, 23B.07.020, 23B.07.030, 23B.07.040, 23B.07.060, 23B.07.220, 23B.07.240, 23B.08.030, 23B.08.070, 23B.08.210, 23B.08.230, 23B.08.240, 23B.08.600, 23B.10.012, 23B.11.040, 23B.13.030, 23B.13.200, 23B.13.210, 23B.13.220, 23B.13.230, 23B.13.280, 23B.14.392, 23B.15.032, 23B.15.070, 23B.15.080, 23B.16.010, 23B.16.020, and 23B.16.200.

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

Sec. I. RCW 23B.01.200 and 1991 c 72 s 24 are each amended to read as follows:

(1) A ~~((document))~~ record must satisfy the requirements of this section, and of any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

(2) The secretary of state may permit records to be filed through electronic transmission. The secretary of state may adopt rules varying from these requirements to facilitate electronic filing. These rules shall detail the circumstances under which the electronic filing of records shall be permitted and how such records shall be filed. These rules may also impose additional requirements related to implementation of electronic filing processes including but not limited to: File formats; signature technologies; the manner of delivery; and the types of entities or records permitted.

~~(3)~~ This title must require or permit filing the ~~((document))~~ record in the office of the secretary of state.

~~((3))~~ (4) The ~~((document))~~ record must contain the information required by this title. It may contain other information as well.

~~((4))~~ (5) The ~~((document))~~ record must: (a) Be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state; or (b) meet the standards for electronic filing as may be prescribed by the secretary of state.

~~((5))~~ (6) The ~~((document))~~ record must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

~~((6))~~ (7) Unless otherwise indicated in this title, all ~~((documents))~~ records submitted for filing must be executed:

(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

~~((7))~~ (8) The person executing the ~~((document))~~ record shall sign it and state beneath or opposite the signature the name of the person and the capacity in which the person signs. The ~~((document))~~ record may but need not contain: (a) The corporate seal; (b) an attestation by the secretary or an assistant secretary; or (c) an acknowledgment, verification, or proof.

~~((8))~~ (9) If the secretary of state has prescribed a mandatory form for the ~~((document))~~ record under RCW 23B.01.210, the ~~((document))~~ record must be in or on the prescribed form.

~~((9))~~ (10) The ~~((document))~~ record must be ~~((delivered to))~~ received by the office of the secretary of state for filing and, except in the case of an electronic filing, must be accompanied by one exact or conformed copy, the correct filing fee or charge, including license fee, penalty and service fee, and any attachments which are required for the filing.

Sec. 2. RCW 23B.01.202 and 1998 c 23 s 5 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate ~~((documents))~~ records are required to be filed with the secretary of state, the ~~((documents))~~ records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 3. RCW 23B.01.220 and 1993 c 269 s 2 are each amended to read as follows:

(1) The secretary of state shall collect in accordance with the provisions of this title:

- (a) Fees for filing ~~((documents))~~ records and issuing certificates;
- (b) Miscellaneous charges;
- (c) License fees as provided in RCW 23B.01.500 through 23B.01.550;
- (d) Penalty fees; and
- (e) Other fees as the secretary of state may establish by rule adopted under chapter 34.05 RCW.

(2) The secretary of state shall collect the following fees when the ~~((documents))~~ records described in this subsection are delivered for filing:

One hundred seventy-five dollars, pursuant to RCW 23B.01.520 and 23B.01.540, for:

- (a) Articles of incorporation; and
 - (b) Application for certificate of authority.
- (3) The secretary of state shall establish by rule, fees for the following:
- (a) Application for reinstatement;
 - (b) Articles of correction;
 - (c) Amendment of articles of incorporation;
 - (d) Restatement of articles of incorporation, with or without amendment;
 - (e) Articles of merger or share exchange;
 - (f) Articles of revocation of dissolution;
 - (g) Application for amended certificate of authority;
 - (h) Application for reservation, registration, or assignment of reserved name;
 - (i) Corporation's statement of change of registered agent or registered office, or both, except where this information is provided in conjunction with and on an initial report or an annual report form filed under RCW 23B.01.530, 23B.01.550, 23B.02.050, or 23B.16.220;

(j) Agent's resignation, or statement of change of registered office, or both, for each affected corporation;

(k) Initial report; and

(l) Any ((document)) record not listed in this subsection that is required or permitted to be filed under this title.

(4) Fees shall be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biennial cost study performed by the secretary of state.

(5) The secretary of state shall not collect fees for:

(a) Agent's consent to act as agent;

(b) Agent's resignation, if appointed without consent;

(c) Articles of dissolution;

(d) Certificate of judicial dissolution;

(e) Application for certificate of withdrawal; and

(f) Annual report when filed concurrently with the payment of annual license fees.

(6) The secretary of state shall collect a fee in an amount established by the secretary of state by rule per defendant served, upon being served process under this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.

(7) The secretary of state shall establish by rule and collect a fee from every person or organization:

(a) For furnishing a certified copy of any ((document)) record, instrument, or paper relating to a corporation;

(b) For furnishing a certificate, under seal, attesting to the existence of a corporation, or any other certificate; and

(c) For furnishing copies of any ((document)) record, instrument, or paper relating to a corporation, other than of an initial report or an annual report.

(8) For annual license fees for domestic and foreign corporations, see RCW 23B.01.500, 23B.01.510, 23B.01.530, and 23B.01.550. For penalties for nonpayment of annual license fees and failure to complete annual report, see RCW 23B.01.570.

Sec. 4. RCW 23B.01.230 and 1989 c 165 s 6 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW 23B.01.240(3), a ((document)) record accepted for filing is effective on the date it is filed by the secretary of state and at the time on that date specified in the ((document)) record. If no time is specified in the ((document)) record, the ((document)) record is effective at the close of business on the date it is filed by the secretary of state.

(2) If a ((document)) record specifies a delayed effective time and date, the ((document)) record becomes effective at the time and date specified. If a ((document)) record specifies a delayed effective date but no time is specified, the

((document)) record is effective at the close of business on that date. A delayed effective date for a ((document)) record may not be later than the ninetieth day after the date it is filed.

(3) When a ((document)) record is received for filing by the secretary of state in a form which complies with the requirements of this title and which would entitle the ((document)) record to be filed on receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to and be shown as the date on which the secretary of state first received the ((document)) record in acceptable form.

Sec. 5. RCW 23B.01.240 and 1989 c 165 s 7 are each amended to read as follows:

(1) A domestic or foreign corporation may correct a ((document)) record filed by the secretary of state if the ((document)) record (a) contains an incorrect statement; or (b) was defectively executed, attested, sealed, verified, or acknowledged.

(2) A ((document)) record is corrected:

(a) By preparing articles of correction that (i) describe the ((document)) record, including its filing date, or attach a copy of it to the articles of correction, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and

(b) By delivering the articles of correction to the secretary of state for filing.

(3) Articles of correction are effective on the effective date of the ((document)) record they correct except as to persons relying on the uncorrected ((document)) record and adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 6. RCW 23B.01.250 and 1989 c 165 s 8 are each amended to read as follows:

(1) If a ((document)) record delivered to the office of the secretary of state for filing satisfies the requirements of RCW 23B.01.200, the secretary of state shall file it.

(2)(a) The secretary of state files a ((document)) record: (i) In the case of a record in a tangible medium, by stamping or otherwise endorsing "Filed," together with the secretary of state's name and official title and the date of filing, on both the original and the ((document)) record copy(~~(- After filing a document)~~); and (ii) in the case of an electronically transmitted record, by the electronic processes as may be prescribed by the secretary of state from time to time that result in the information required by (a)(i) of this subsection being permanently attached to or associated with such electronically transmitted record.

(b) After filing a record, the secretary of state shall deliver ((the document copy)) a record of the filing to the domestic or foreign corporation or its representative either: (i) In a written copy of the filing; or (ii) if the corporation has designated an address, location, or system to which the record may be

electronically transmitted and the secretary of state elects to provide the record by electronic transmission, in an electronically transmitted record of the filing

(3) If the secretary of state refuses to file a ~~((document))~~ record, the secretary of state shall return it to the domestic or foreign corporation or its representative, together with a brief ~~((written))~~ explanation of the reason for the refusal. The explanation shall be either: (a) In a written record or (b) if the corporation has designated an address, location, or system to which the explanation may be electronically transmitted and the secretary of state elects to provide the explanation by electronic transmission, in an electronically transmitted record.

(4) The secretary of state's duty to file ~~((documents))~~ records under this section is ministerial. Filing or refusal to file a ~~((document))~~ record does not:

(a) Affect the validity or invalidity of the ~~((document))~~ record in whole or part;
 (b) Relate to the correctness or incorrectness of information contained in the ~~((document))~~ record; or

(c) Create a presumption that the ~~((document))~~ record is valid or invalid or that information contained in the ~~((document))~~ record is correct or incorrect.

Sec. 7. RCW 23B.01.260 and 1989 c 165 s 9 are each amended to read as follows:

If the secretary of state refuses to file a ~~((document delivered to))~~ record received by the office for filing, the person submitting the ~~((document))~~ record, in addition to any other legal remedy which may be available, shall have the right to judicial review of such refusal pursuant to the provisions of chapter 34.05 RCW.

Sec. 8. RCW 23B.01.270 and 1989 c 165 s 10 are each amended to read as follows:

A certificate bearing the manual or facsimile signature of the secretary of state and the seal of the state, when attached to or located on a ~~((document))~~ record or a copy of a ~~((document))~~ record filed by the secretary of state, is conclusive evidence that the original ~~((document))~~ record is on file with the secretary of state.

Sec. 9. RCW 23B.01.400 and 2000 c 168 s 1 are each amended to read as follows:

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

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so ~~((written))~~ prepared that a reasonable person against whom the ~~((writing))~~ record is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(5) "Deliver" includes (a) mailing ~~((and))~~, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

(6) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(7) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(8) "Electronic transmission" ~~((or "electronically transmitted"))~~ means ~~((any process of))~~ an electronic communication (a) not directly involving the physical transfer of ((paper)) a record in a tangible medium and (b) that ((is suitable for the retention, retrieval, and reproduction of the transmitted information by the recipient)) may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(9) "Electronically transmitted" means the initiation of an electronic transmission.

(10) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

~~((10))~~ (11) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, ~~((profit and not-for-profit unincorporated association,))~~ business trust, estate, ~~((partnership,))~~ trust, ~~((and))~~ partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, ~~((and))~~ the state, United States, and a foreign ~~((government))~~ governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~((11))~~ (12) "Execute," "executes," or "executed" means (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission, or (c) with respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

~~(13)~~ (13) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

~~((12))~~ (14) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

~~((13))~~ (15) "Governmental subdivision" includes authority, county, district, and municipality.

~~((14))~~ (16) "Includes" denotes a partial definition.

~~((15))~~ (17) "Individual" includes the estate of an incompetent or deceased individual.

~~((16))~~ (18) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

~~((17))~~ (19) "Means" denotes an exhaustive definition.

~~((18))~~ (20) "Notice" has the meaning provided in RCW 23B.01.410.

~~((19))~~ (21) "Person" includes an individual and an entity.

~~((20))~~ (22) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

~~((21))~~ (23) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

~~((22))~~ (24) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

~~((23))~~ (25) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(26) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

~~((24))~~ (27) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

~~((23))~~ (28) "Shares" means the units into which the proprietary interests in a corporation are divided.

~~((26))~~ (29) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

~~((27))~~ (30) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and

a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

~~((28))~~ (31) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

~~((29))~~ (32) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.

(33) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

~~((30))~~ (34) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(35) "Writing" does not include an electronic transmission.

(36) "Written" means embodied in a tangible medium.

Sec. 10. RCW 23B.01.410 and 1991 c 72 s 29 are each amended to read as follows:

(1) Notice under this title must be ~~((in writing))~~ provided in the form of a record, except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

(2) ~~((Written notice may be transmitted by: Mail))~~ Permissible means of transmission.

(a) Oral notice. Oral notice may be communicated in person, by telephone, wire, or wireless equipment which does not transmit a facsimile of the notice, or by any electronic means which does not create a record. If these forms of oral notice are impracticable, oral notice may be communicated by radio, television, or other form of public broadcast communication.

(b) Notice provided in a tangible medium. Notice may be provided in a tangible medium and be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment which transmits a facsimile of the notice. If these forms of ~~((written))~~ notice in a tangible medium are impracticable, ~~((written))~~ notice in a tangible medium may be transmitted by an advertisement in a newspaper of general circulation in the area where published. ~~((Oral notice may be communicated in person or by telephone, wire or wireless equipment which does not transmit a facsimile of the notice. If these forms of oral notice are impracticable, oral notice may be communicated by radio, television, or other form of public broadcast communication.~~

~~— (3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, is effective when mailed, if mailed with first-class postage prepaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders.~~

~~— (4) Written)~~ (c) Notice provided in an electronic transmission.

(i) Notice may be provided in an electronic transmission and be electronically transmitted.

(ii) Notice to shareholders or directors in an electronic transmission is effective only with respect to shareholders and directors that have consented, in the form of a record, to receive electronically transmitted notices under this title and designated in the consent the address, location, or system to which these notices may be electronically transmitted and with respect to a notice that otherwise complies with any other requirements of this title and applicable federal law.

(A) Notice to shareholders or directors for this purpose includes material that this title requires or permits to accompany the notice.

(B) A shareholder or director who has consented to receipt of electronically transmitted notices may revoke this consent by delivering a revocation to the corporation in the form of a record.

(C) The consent of any shareholder or director is revoked if (I) the corporation is unable to electronically transmit two consecutive notices given by the corporation in accordance with the consent, and (II) this inability becomes known to the secretary of the corporation, the transfer agent, or any other person responsible for giving the notice. The inadvertent failure by the corporation to treat this inability as a revocation does not invalidate any meeting or other action.

(iii) Notice to shareholders or directors who have consented to receipt of electronically transmitted notices may be provided by (A) posting the notice on an electronic network and (B) delivering to the shareholder or director a separate record of the posting, together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

(iv) Notice to a domestic or foreign corporation, authorized to transact business in this state, ~~((may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.~~

~~— (5) Written notice))~~ in an electronic transmission is effective only with respect to a corporation that has designated in a record an address, location, or system to which the notices may be electronically transmitted.

(3) Effective time and date of notice.

(a) Oral notice. Oral notice is effective when received.

(b) Notice provided in a tangible medium.

(i) Notice in a tangible medium, if in a comprehensible form, is effective at the earliest of the following:

~~((a))~~ (A) If expressly authorized by the articles of incorporation or bylaws, and if notice is sent to the person's address, telephone number, or other number appearing on the records of the corporation, when dispatched by telegraph, teletype, or facsimile equipment;

~~((b))~~ (B) When received;

~~((c))~~ (C) Except as provided in (b)(ii) of this subsection ~~((3) of this section)~~, five days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid and correctly addressed; or

~~((d))~~ (D) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

~~((6))~~ Oral notice is effective when communicated if communicated in a comprehensible manner.

~~((7))~~ (ii) Notice in a tangible medium by a domestic or foreign corporation to its shareholder, if in a comprehensible form and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders, is effective:

(A) When mailed, if mailed with first class postage prepaid; and

(B) When dispatched, if prepaid, by air courier.

(iii) Notice in a tangible medium to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to the corporation's registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report, or in the case of a foreign corporation that has not yet delivered its annual report in its application for a certificate of authority.

(c) Notice provided in an electronic transmission. Notice provided in an electronic transmission, if in comprehensible form, is effective when it: (i) Is electronically transmitted to an address, location, or system designated by the recipient for that purpose; or (ii) has been posted on an electronic network and a separate record of the posting has been delivered to the recipient together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

(4) If this title prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this title, those requirements govern.

Sec. 11. RCW 23B.02.020 and 1997 c 19 s I are each amended to read as follows:

(1) The articles of incorporation must set forth:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(dd) A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with

the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 12. RCW 23B.02.032 and 1998 c 23 s 6 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an

insurance company under chapter 48.05 RCW, whenever under this chapter corporate ((documents)) records are required to be filed with the secretary of state, the ((documents)) records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 13. RCW 23B.02.050 and 1991 c 72 s 31 are each amended to read as follows:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect directors and complete the organization of the corporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(2) Action required or permitted by this title to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by ((one or more written consents)) the consent of each of the incorporators in the form of a record describing the action taken and ((signed)) executed by each incorporator.

(3) An organizational meeting may be held in or out of this state.

(4) A corporation's initial report containing the information described in RCW 23B.16.220(1) must be delivered to the secretary of state within one hundred twenty days of the date on which the corporation's articles of incorporation were filed.

Sec. 14. RCW 23B.04.035 and 1998 c 23 s 7 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate ((documents)) records are required to be filed with the secretary of state, the ((documents)) records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 15. RCW 23B.05.010 and 1989 c 165 s 40 are each amended to read as follows:

(1) Each corporation must continuously maintain in this state:

(a) A registered office that may be the same as any of its places of business. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description.

A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address (~~in the same city as the registered office~~) in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent that may be:

(i) An individual residing in this state whose business office is identical with the registered office;

(ii) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; ~~(or)~~

(iii) A foreign corporation or not-for-profit foreign corporation authorized to conduct affairs in this state whose business office is identical with the registered office;

(iv) A domestic limited liability company whose business office is identical with the registered office; or

(v) A foreign limited liability company authorized to conduct affairs in this state whose business office is identical with the registered office.

(2) A registered agent shall not be appointed without having given prior ~~(written)~~ consent in a record to the appointment. The ~~(written)~~ consent shall be filed with the secretary of state in such form as the secretary of state may prescribe. The ~~(written)~~ consent shall be filed with or as a part of the ~~(document)~~ record first appointing a registered agent. In the event any individual ~~(or)~~, corporation, or limited liability company has been appointed agent without consent, that person ~~(or)~~, corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall ~~(forthwith)~~ immediately be removed from the records of the secretary of state.

Sec. 16. RCW 23B.05.020 and 1989 c 165 s 41 are each amended to read as follows:

(1) A corporation may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the corporation;

(b) If the current registered office is to be changed, the street address of the new registered office in accord with RCW 23B.05.010(1)(a);

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's ~~(written)~~ consent in a record, either on the statement or attached to it in a manner and form as the secretary of state may prescribe, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any corporation for which the agent is the registered agent by notifying the

corporation (~~(in writing of the change and signing, either manually or in facsimile;)~~ of the change either (a) in a written record, or (b) if the corporation has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the corporation at the designated address, location, or system, in an electronically transmitted record and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

Sec. 17. RCW 23B.06.030 and 1989 c 165 s 46 are each amended to read as follows:

(1) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued are outstanding shares until they are reacquired, redeemed, converted, or canceled.

(2) The reacquisition, redemption, or conversion of outstanding shares is subject to the limitations of subsection (4) of this section and to RCW 23B.06.400.

(3) Redeemable shares are deemed to have been redeemed and not entitled to vote after notice of redemption is ~~((mailed))~~ delivered to the holders in compliance with RCW 23B.01.410 and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

(4) At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

Sec. 18. RCW 23B.06.260 and 1989 c 165 s 54 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization does not affect shares already represented by certificates until they are surrendered to the corporation.

(2) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a ~~((written statement of))~~ record containing the information required on certificates by RCW 23B.06.250 (2) and (3), and, if applicable, RCW 23B.06.270.

Sec. 19. RCW 23B.06.300 and 1989 c 165 s 57 are each amended to read as follows:

(1) Unless the articles of incorporation provide otherwise, and subject to the limitations in subsections (3) and (4) of this section, the shareholders of a corporation have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors to provide a fair and reasonable opportunity

to exercise the right, to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them.

(2) Unless the articles of incorporation provide otherwise, a shareholder may waive the shareholder's preemptive right. A waiver evidenced by ~~((a writing))~~ an executed record is irrevocable even though it is not supported by consideration.

(3) Unless the articles of incorporation provide otherwise, there is no preemptive right with respect to:

(a) Shares issued as compensation to directors, officers, agents, or employees of the corporation, or its subsidiaries or affiliates;

(b) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, or its subsidiaries or affiliates;

(c) Shares issued pursuant to the corporation's initial plan of financing; and

(d) Shares sold otherwise than for money.

(4) Unless the articles of incorporation provide otherwise:

(a) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets have no preemptive rights with respect to shares of any class; and

(b) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(5) Unless the articles of incorporation provide otherwise, shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year is subject to the shareholders' preemptive rights.

(6) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 20. RCW 23B.07.010 and 1994 c 256 s 28 are each amended to read as follows:

(1) Except as provided in subsections (2) and (5) of this section, a corporation shall hold a meeting of shareholders annually for the election of directors at a time stated in or fixed in accordance with the bylaws.

(2)(a) If the articles of incorporation or the bylaws of a corporation registered as an investment company under the investment company act of 1940 so provide, the corporation is not required to hold an annual meeting of shareholders in any year in which the election of directors is not required by the investment company act of 1940.

(b) If a corporation is required under (a) of this subsection to hold an annual meeting of shareholders to elect directors, the meeting shall be held no later than one hundred twenty days after the occurrence of the event requiring the meeting.

(3) Annual shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(4) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

(5) Shareholders may act by consent set forth in a record to elect directors as permitted by RCW 23B.07.040 in lieu of holding an annual meeting.

Sec. 21. RCW 23B.07.020 and 1989 c 165 s 61 are each amended to read as follows:

(1) A corporation shall hold a special meeting of shareholders:

(a) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(b) Except as set forth in subsections (2) and (3) of this section, if the holders of at least ten percent of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting (~~(sign, date, and)~~) deliver to the corporation's secretary one or more (~~written~~) demands set forth in an executed and dated record for the meeting describing the purpose or purposes for which it is to be held, which demands shall be set forth either (i) in an executed record or (ii) if the corporation has designated an address, location, or system to which the demands may be electronically transmitted and the demands are electronically transmitted to that designated address, location, or system, in an executed electronically transmitted record.

(2) The right of shareholders of a public company to call a special meeting may be limited or denied to the extent provided in the articles of incorporation.

(3) If the corporation is other than a public company, the articles or bylaws may require the demand specified in subsection (1)(b) of this section be made by a greater percentage, not in excess of twenty-five percent, of all the votes entitled to be cast on any issue proposed to be considered at the proposed special meeting.

(4) If not otherwise fixed under RCW 23B.07.030 or 23B.07.070, the record date for determining shareholders entitled to demand a special meeting is the date of delivery of the first shareholder (~~(signs the)~~) demand in compliance with subsection (1) of this section.

(5) Special shareholders' meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office.

(6) Only business within the purpose or purposes described in the meeting notice required by RCW 23B.07.050(3) may be conducted at a special shareholders' meeting.

Sec. 22. RCW 23B.07.030 and 1989 c 165 s 62 are each amended to read as follows:

(1) The superior court of the county in which the corporation's registered office is located may, after notice to the corporation, summarily order a meeting to be held:

(a) On application of any shareholder of the corporation entitled to vote in the election of directors at an annual meeting, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting or action by consent in lieu of such a meeting; or

(b) On application of a shareholder who ~~((signed))~~ executed a demand for a special meeting valid under RCW 23B.07.020, if:

(i) Notice of the special meeting was not given within thirty days after the date the demand was delivered to the corporation's secretary; or

(ii) The special meeting was not held in accordance with the notice.

(2) The court may, after notice to the corporation, fix the time and place of the meeting, determine the shares and shareholders entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the manner, form, and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

Sec. 23. RCW 23B.07.040 and 1997 c 19 s 2 are each amended to read as follows:

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

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

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

(b) The taking of action by shareholders without a meeting or vote must be evidenced by one or more ~~((written))~~ consents, each in the form of a record describing the action taken, ~~((signed))~~ executed by shareholders holding of record or otherwise entitled to vote in the aggregate not less than the minimum number of votes necessary in order to take such action by ~~((written))~~ consent under (a)(i)

or (ii) of this subsection, and delivered to the corporation for inclusion in the minutes or filing with the corporate records, which consent shall be set forth either (i) in an executed record or (ii) if the corporation has designated an address, location, or system to which the consent may be electronically transmitted and the consent is electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record.

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

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

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

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

(6) Notice of the taking of action by shareholders without a meeting by less than unanimous ~~((written))~~ consent of all shareholders entitled to vote on the action shall be given, before the date on which the action becomes effective, to those shareholders entitled to vote on the action who have not consented ~~((in writing))~~ and, if this title would otherwise require that notice of a meeting of shareholders to consider the action be given to nonvoting shareholders, to all nonvoting shareholders of the corporation. The general or limited authorization in the corporation's articles of incorporation authorizing shareholder action by less than unanimous ~~((written))~~ consent shall specify the amount and form of notice required to be given to nonconsenting shareholders before the effective date of the action. In the case of action of a type that would constitute a significant business transaction under RCW 23B.19.020(15), the notice shall be given no fewer than

twenty days before the effective date of the action. The notice shall be in ~~((writing))~~ the form of a record and shall contain or be accompanied by the same material that, under this title, would have been required to be ~~((sent))~~ delivered to nonconsenting or nonvoting shareholders in a notice of meeting at which the proposed action would have been submitted for shareholder action. If the action taken is of a type that would entitle shareholders to exercise dissenters' rights under RCW 23B.13.020(1), then the notice must comply with RCW 23B.13.220(2), RCW 23B.13.210 shall not apply, and all shareholders who have not ~~((signed))~~ executed the consent taking the action are entitled to receive the notice, demand payment under RCW 23B.13.230, and assert other dissenters' rights as prescribed in chapter 23B.13 RCW.

Sec. 24. RCW 23B.07.060 and 1991 c 72 s 34 are each amended to read as follows:

(1) A shareholder may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time of the meeting that is the subject of such notice, or in the case of notice required by RCW 23B.07.040(6), before or after the action to be taken by ~~((written))~~ executed consent is effective. Except as provided by subsections (2) and (3) of this section, the waiver must be ~~((in writing, be signed by the shareholder entitled to the notice, and be))~~ delivered by the shareholder entitled to notice to the corporation for inclusion in the minutes or filing with the corporate records, which waiver shall be set forth either (a) in an executed and dated record or (b) if the corporation has designated an address, location, or system to which the waiver may be electronically transmitted and the waiver is electronically transmitted to the designated address, location, or system, in an executed and dated electronically transmitted record.

(2) A shareholder's attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless the shareholder at the beginning of the meeting objects to holding the meeting or transacting business at the meeting.

(3) A shareholder waives objection to consideration of a particular matter at a meeting that is not within the purpose or purposes described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

Sec. 25. RCW 23B.07.220 and 2000 c 168 s 2 are each amended to read as follows:

(1) A shareholder may vote the shareholder's shares in person or by proxy.

(2) A shareholder or the shareholder's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the shareholder by:

(a) Executing a writing authorizing another person or persons to act for the shareholder as proxy. Execution may be accomplished by the shareholder or the shareholder's authorized officer, director, employee, or agent signing the writing or causing his or her signature to be affixed to the writing by any reasonable means including, but not limited to, by facsimile signature; or

(b) Authorizing another person or persons to act for the shareholder as proxy by transmitting or authorizing the transmission of ~~((an))~~ a recorded telephone call, voice mail, or other electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization, or like agent duly authorized by the person who will be the holder of the proxy to receive the transmission, provided that the ~~((electronic))~~ transmission must either set forth or be submitted with information, including any security or validation controls used, from which it can reasonably be determined that the ~~((electronic))~~ transmission was authorized by the shareholder. If it is determined that the ~~((electronic))~~ transmission is valid, the inspectors of election or, if there are no inspectors, any officer or agent of the corporation making that determination on behalf of the corporation shall specify the information upon which they relied. The corporation shall require the holders of proxies received by ~~((electronic))~~ transmission to provide to the corporation copies of the ~~((electronic))~~ transmission and the corporation shall retain copies of the ~~((electronic))~~ transmission for a reasonable period of time after the election provided that they are retained for at least sixty days.

(3) An appointment of a proxy is effective when a signed appointment form or telegram, cablegram, recorded telephone call, voicemail, or other ~~((electronic))~~ transmission of the appointment is received by the inspectors of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for eleven months unless a longer period is expressly provided in the appointment.

(4) An appointment of a proxy is revocable by the shareholder unless the appointment indicates that it is irrevocable and the appointment is coupled with an interest. Appointments coupled with an interest include the appointment of:

- (a) A pledgee;
- (b) A person who purchased or agreed to purchase the shares;
- (c) A creditor of the corporation who extended it credit under terms requiring the appointment;
- (d) An employee of the corporation whose employment contract requires the appointment; or
- (e) A party to a voting agreement created under RCW 23B.07.310.

(5) The death or incapacity of the shareholder appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the officer or agent of the corporation authorized to tabulate votes before the proxy exercises the proxy's authority under the appointment.

(6) An appointment made irrevocable under subsection (4) of this section is revoked when the interest with which it is coupled is extinguished.

(7) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when the transferee acquired the shares and the existence of the irrevocable appointment was

not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(8) Subject to RCW 23B.07.240 and to any express limitation on the proxy's authority stated in the appointment form or recorded telephone call, voice mail, or other electronic transmission, a corporation is entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

(9) For the purposes of this section only, "sign" or "signature" includes any manual, facsimile, conformed, or electronic signature.

Sec. 26. RCW 23B.07.240 and 2000 c 168 s 3 are each amended to read as follows:

(1) If the name ((signed)) executed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(2) If the name ((signed)) executed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(a) The shareholder is an entity and the name ((signed)) executed purports to be that of an officer, partner, or agent of the entity;

(b) The name ((signed)) executed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(c) The name ((signed)) executed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(d) The name ((signed)) executed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(e) Two or more persons are the shareholder as cotenants or fiduciaries and the name ((signed)) executed purports to be the name of at least one of the coowners and the person signing appears to be acting on behalf of all the coowners.

(3) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of ((~~the signature on it or about the signatory's authority to sign for the shareholder~~)) its execution.

(4) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the

standards of this section or RCW 23B.07.220(2) are not liable in damages to the shareholder for the consequences of the acceptance or rejection.

(5) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section, or RCW 23B.07.220(2) is valid unless a court of competent jurisdiction determines otherwise.

Sec. 27. RCW 23B.08.030 and 1994 c 256 s 29 are each amended to read as follows:

(1) A board of directors must consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) Directors are elected at the first annual shareholders' meeting and at each annual meeting thereafter unless (a) their terms are staggered under RCW 23B.08.060, or (b) their terms are otherwise governed by RCW 23B.05.050. Directors also may be elected by consent action under RCW 23.07.040.

Sec. 28. RCW 23B.08.070 and 1989 c 165 s 86 are each amended to read as follows:

(1) A director may resign at any time by delivering (~~written~~) an executed notice to the board of directors, its chairperson, the president, or the secretary.

(2) A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

Sec. 29. RCW 23B.08.210 and 1989 c 165 s 92 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws provide otherwise, action required or permitted by this title to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more (~~written~~) consents describing the action taken, (~~signed~~) executed by each director either before or after the action taken, and delivered to the corporation for inclusion in the minutes or filing with the corporate records, each of which consents shall be set forth either (a) in an executed record or (b) if the corporation has designated an address, location, or system to which the consents may be electronically transmitted and the consent is electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record.

(2) Action taken under this section is effective when the last director (~~signs~~) executes the consent, unless the consent specifies a later effective date.

(3) A consent (~~signed~~) under this section has the effect of a meeting vote and may be described as such in any (~~document~~) record.

Sec. 30. RCW 23B.08.230 and 1989 c 165 s 94 are each amended to read as follows:

(1) A director may waive any notice required by this title, the articles of incorporation, or bylaws before or after the date and time stated in the notice, and such waiver shall be equivalent to the giving of such notice. Except as provided

by subsection (2) of this section, the waiver must be (~~(in writing, signed)~~) delivered by the director entitled to the notice (~~(, and delivered)~~) to the corporation for inclusion in the minutes or filing with the corporate records, which waiver shall be set forth either (a) in an executed record or (b) if the corporation has designated an address, location, or system to which the waiver may be electronically transmitted and the waiver has been electronically transmitted to the designated address, location, or system, in an executed electronically transmitted record.

(2) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon the director's arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

Sec. 31. RCW 23B.08.240 and 1991 c 72 s 35 are each amended to read as follows:

(1) Unless the articles of incorporation or bylaws require a greater or lesser number, a quorum of a board of directors consists of a majority of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(2) Notwithstanding subsection (1) of this section, a quorum of a board of directors may in no event be less than one-third of the number of directors specified in or fixed in accordance with the articles of incorporation or bylaws.

(3) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(4) A director who is present at a meeting of the board of directors when action is taken is deemed to have assented to the action taken unless: (a) The director objects at the beginning of the meeting, or promptly upon the director's arrival, to holding it or transacting business at the meeting; (b) the director's dissent or abstention from the action taken is entered in the minutes of the meeting; or (c) the director delivers (~~(written)~~) notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation within a reasonable time after adjournment of the meeting. The right of dissent or abstention is not available to a director who votes in favor of the action taken.

Sec. 32. RCW 23B.08.600 and 1989 c 165 s 115 are each amended to read as follows:

If a corporation indemnifies or advances expenses to a director under RCW 23B.08.510, 23B.08.520, 23B.08.530, 23B.08.540, or 23B.08.560 in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in (~~(writing)~~) the form of a notice to the shareholders delivered with or before the notice of the next shareholders' meeting.

Sec. 33. RCW 23B.10.012 and 1998 c 23 s 9 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate ~~((documents))~~ records are required to be filed with the secretary of state, the ~~((documents))~~ records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 34. RCW 23B.11.040 and 1989 c 165 s 134 are each amended to read as follows:

(1) A parent corporation owning at least ninety percent of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.

(2) The board of directors of the parent shall adopt a plan of merger that sets forth:

(a) The names of the parent and subsidiary; and

(b) The manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or part.

(3) Within ten days after the corporate action is taken, the parent shall ~~((mail a copy of the plan of merger))~~ deliver a notice to each shareholder of the subsidiary, which notice shall include a copy of the plan of merger.

(4) Articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation, except for amendments enumerated in RCW 23B.10.020.

Sec. 35. RCW 23B.13.030 and 1989 c 165 s 142 are each amended to read as follows:

(1) A record shareholder may assert dissenters' rights as to fewer than all the shares registered in the shareholder's name only if the shareholder dissents with respect to all shares beneficially owned by any one person and ~~((notifies))~~ delivers to the corporation ~~((in writing))~~ a notice of the name and address of each person on whose behalf the shareholder asserts dissenters' rights. The rights of a partial dissenter under this subsection are determined as if the shares as to which the dissenter dissents and the dissenter's other shares were registered in the names of different shareholders.

(2) A beneficial shareholder may assert dissenters' rights as to shares held on the beneficial shareholder's behalf only if:

(a) The beneficial shareholder submits to the corporation the record shareholder's ~~((written))~~ consent to the dissent not later than the time the beneficial shareholder asserts dissenters' rights which consent shall be set forth either (i) in a record or (ii) if the corporation has designated an address, location, or system to which the consent may be electronically transmitted and the consent is electronically transmitted to the designated address, location, or system, in an electronically transmitted record; and

(b) The beneficial shareholder does so with respect to all shares of which such shareholder is the beneficial shareholder or over which such shareholder has power to direct the vote.

Sec. 36. RCW 23B.13.200 and 1989 c 165 s 143 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted to a vote at a shareholders' meeting, the meeting notice must state that shareholders are or may be entitled to assert dissenters' rights under this chapter and be accompanied by a copy of this chapter.

(2) If corporate action creating dissenters' rights under RCW 23B.13.020 is taken without a vote of shareholders, the corporation, within ten days after ~~((the))~~ the effective date of such corporate action, shall ~~((notify in writing))~~ deliver a notice to all shareholders entitled to assert dissenters' rights that the action was taken and send them the ~~((dissenters'))~~ notice described in RCW 23B.13.220.

Sec. 37. RCW 23B.13.210 and 1989 c 165 s 144 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is submitted to a vote at a shareholders' meeting, a shareholder who wishes to assert dissenters' rights must (a) deliver to the corporation before the vote is taken ~~((written))~~ notice of the shareholder's intent to demand payment for the shareholder's shares if the proposed action is effected, and (b) not vote such shares in favor of the proposed action.

(2) A shareholder who does not satisfy the requirements of subsection (1) of this section is not entitled to payment for the shareholder's shares under this chapter.

Sec. 38. RCW 23B.13.220 and 1989 c 165 s 145 are each amended to read as follows:

(1) If proposed corporate action creating dissenters' rights under RCW 23B.13.020 is authorized at a shareholders' meeting, the corporation shall deliver a ~~((written dissenters'))~~ notice to all shareholders who satisfied the requirements of RCW 23B.13.210.

(2) The ~~((dissenters'))~~ notice must be sent within ten days after the effective date of the corporate action, and must:

(a) State where the payment demand must be sent and where and when certificates for certificated shares must be deposited;

(b) Inform holders of uncertificated shares to what extent transfer of the shares will be restricted after the payment demand is received;

(c) Supply a form for demanding payment that includes the date of the first announcement to news media or to shareholders of the terms of the proposed corporate action and requires that the person asserting dissenters' rights certify whether or not the person acquired beneficial ownership of the shares before that date;

(d) Set a date by which the corporation must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice in subsection (1) of this section is delivered; and

(e) Be accompanied by a copy of this chapter.

Sec. 39. RCW 23B.13.230 and 1989 c 165 s 146 are each amended to read as follows:

(1) A shareholder sent a (~~(dissenters²)~~) notice described in RCW 23B.13.220 must demand payment, certify whether the shareholder acquired beneficial ownership of the shares before the date required to be set forth in the (~~(dissenters²)~~) notice pursuant to RCW 23B.13.220(2)(c), and deposit the shareholder's certificates, all in accordance with the terms of the notice.

(2) The shareholder who demands payment and deposits the shareholder's share certificates under subsection (1) of this section retains all other rights of a shareholder until the proposed corporate action is effected.

(3) A shareholder who does not demand payment or deposit the shareholder's share certificates where required, each by the date set in the (~~(dissenters²)~~) notice, is not entitled to payment for the shareholder's shares under this chapter.

Sec. 40. RCW 23B.13.280 and 1989 c 165 s 151 are each amended to read as follows:

(1) A dissenter may (~~(notify)~~) deliver a notice to the corporation informing the corporation (~~(in writing)~~) of the dissenter's own estimate of the fair value of the dissenter's shares and amount of interest due, and demand payment of the dissenter's estimate, less any payment under RCW 23B.13.250, or reject the corporation's offer under RCW 23B.13.270 and demand payment of the dissenter's estimate of the fair value of the dissenter's shares and interest due, if:

(a) The dissenter believes that the amount paid under RCW 23B.13.250 or offered under RCW 23B.13.270 is less than the fair value of the dissenter's shares or that the interest due is incorrectly calculated;

(b) The corporation fails to make payment under RCW 23B.13.250 within sixty days after the date set for demanding payment; or

(c) The corporation does not effect the proposed action and does not return the deposited certificates or release the transfer restrictions imposed on uncertificated shares within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the corporation of the dissenter's demand (~~(in writing)~~) under subsection (1) of this section within thirty days after the corporation made or offered payment for the dissenter's shares.

Sec. 41. RCW 23B.14.392 and 1998 c 23 s 10 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter

corporate ((documents)) records are required to be filed with the secretary of state, the ((documents)) records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 42. RCW 23B.15.032 and 1998 c 23 s 11 are each amended to read as follows:

For those corporations that have a certificate of authority, are applying for, or intend to apply for a certificate of authority from the insurance commissioner as an insurance company under chapter 48.05 RCW, whenever under this chapter corporate ((documents)) records are required to be filed with the secretary of state, the ((documents)) records shall be filed with the insurance commissioner rather than the secretary of state.

Sec. 43. RCW 23B.15.070 and 1989 c 165 s 175 are each amended to read as follows:

(1) Each foreign corporation authorized to transact business in this state must continuously maintain in this state:

(a) A registered office which may be, but need not be, the same as its place of business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, building address, or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in the same city as the registered office to be used in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.

(b) A registered agent, who may be:

(i) An individual who resides in this state and whose business office is identical with the registered office;

(ii) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office; ((or))

(iii) A foreign corporation or foreign not-for-profit corporation authorized to transact business or conduct affairs in this state whose business office is identical with the registered office;

(iv) A domestic limited liability company whose business office is identical with the registered office; or

(v) A foreign limited liability company authorized to conduct affairs in this state whose business office is identical with the registered office.

(2) A registered agent shall not be appointed without having given prior ((written)) consent in a record to the appointment. The ((written)) consent shall be filed with the secretary of state in such form as the secretary of state may prescribe. The ((written)) consent shall be filed with or as a part of the ((document)) record first appointing a registered agent. In the event any individual ((or)), corporation,

or limited liability company has been appointed agent without consent, that person (~~(or)~~), corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records.

Sec. 44. RCW 23B.15.080 and 1989 c 165 s 176 are each amended to read as follows:

(1) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

- (a) Its name;
- (b) If the current registered office is to be changed, the street address of its new registered office;
- (c) If the current registered agent is to be changed, the name of its new registered agent and the new agent's (~~written~~) consent, either on the statement or attached to it in the manner and form as the secretary of state may prescribe, to the appointment; and

(d) That, after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(2) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation (~~(in writing of the change and signing, either manually or in facsimile;)~~) of the change either (a) in a record or (b) if the corporation has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the corporation at the designated address, location, or system, in an electronically transmitted record, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change.

Sec. 45. RCW 23B.16.010 and 1991 c 72 s 40 are each amended to read as follows:

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors exercising the authority of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past three years;

(d) The financial statements described in RCW 23B.16.200(1), for the past three years;

(e) All (~~written~~) communications in the form of a record to shareholders generally within the past three years;

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its initial report or most recent annual report delivered to the secretary of state under RCW 23B.16.220.

Sec. 46. RCW 23B.16.020 and 1989 c 165 s 183 are each amended to read as follows:

(1) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in RCW 23B.16.010(5) if the shareholder gives the corporation (~~written~~) notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy.

(2) A shareholder of a corporation is entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (3) of this section and gives the corporation (~~written~~) notice of the shareholder's demand at least five business days before the date on which the shareholder wishes to inspect and copy:

(a) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while exercising the authority of the board of directors, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under subsection (1) of this section;

(b) Accounting records of the corporation; and

(c) The record of shareholders.

(3) A shareholder may inspect and copy the records described in subsection (2) of this section only if:

(a) The shareholder's demand is made in good faith and for a proper purpose;

(b) The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect; and

(c) The records are directly connected with the shareholder's purpose.

(4) The right of inspection granted by this section may not be abolished or limited by a corporation's articles of incorporation or bylaws.

(5) This section does not affect:

(a) The right of a shareholder to inspect records under RCW 23B.07.200 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(b) The power of a court, independently of this title, to compel the production of corporate records for examination.

(6) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the beneficial owner's behalf.

Sec. 47. RCW 23B.16.200 and 1989 c 165 s 186 are each amended to read as follows:

(1) Not later than four months after the close of each fiscal year, and in any event prior to the annual meeting of shareholders, each corporation shall prepare (a) a balance sheet showing in reasonable detail the financial condition of the corporation as of the close of its fiscal year, and (b) an income statement showing the results of its operation during its fiscal year. Such statements may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate. If financial statements are prepared by the corporation for any purpose on the basis of generally accepted accounting principles, the annual statements must also be prepared, and disclose that they are prepared, on that basis. If financial statements are prepared only on a basis other than generally accepted accounting principles, they must be prepared, and disclose that they are prepared, on the same basis as other reports and statements prepared by the corporation for the use of others.

(2) Upon (~~written~~) request, the corporation shall promptly (~~mail~~) deliver to any shareholder a copy of the most recent balance sheet and income statement, which request shall be set forth either (a) in a written record or (b) if the corporation has designated an address, location, or system to which the request may be electronically transmitted and the request is electronically transmitted to the corporation at the designated address, location, or system, in an electronically transmitted record. If prepared for other purposes, the corporation shall also furnish upon (~~written~~) the request a statement of sources and applications of funds, and a statement of changes in shareholders' equity, for the most recent fiscal year.

(3) If the annual financial statements are reported upon by a public accountant, the accountant's report must accompany them. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

(a) Stating the person's reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(b) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the basis used for statements prepared for the preceding year.

(4) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the beneficial owner's behalf.

Passed the House February 11, 2002.

Passed the Senate March 5, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 298

[Engrossed Substitute House Bill 2305]

AGRICULTURAL ACTIVITIES ON AGRICULTURAL LANDS

AN ACT Relating to clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands; adding a new section to chapter 90.58 RCW; and providing a contingent effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 90.58 RCW to read as follows:

(1) The guidelines adopted by the department and master programs developed or amended by local governments according to RCW 90.58.080 shall not require modification of or limit agricultural activities occurring on agricultural lands. In jurisdictions where agricultural activities occur, master programs developed or amended after the effective date of this act shall include provisions addressing new agricultural activities on land not meeting the definition of agricultural land, conversion of agricultural lands to other uses, and development not meeting the definition of agricultural activities. Nothing in this section limits or changes the terms of the current exception to the definition of substantial development in RCW 90.58.030(3)(e)(iv). This section applies only to this chapter, and shall not affect any other authority of local governments.

(2) For the purposes of this section:

(a) "Agricultural activities" means agricultural uses and practices including, but not limited to: Producing, breeding, or increasing agricultural products; rotating and changing agricultural crops; allowing land used for agricultural activities to lie fallow in which it is plowed and tilled but left unseeded; allowing land used for agricultural activities to lie dormant as a result of adverse agricultural market conditions; allowing land used for agricultural activities to lie dormant because the land is enrolled in a local, state, or federal conservation program, or the land is subject to a conservation easement; conducting agricultural operations; maintaining, repairing, and replacing agricultural equipment; maintaining, repairing, and replacing agricultural facilities, provided that the replacement

facility is no closer to the shoreline than the original facility; and maintaining agricultural lands under production or cultivation;

(b) "Agricultural products" includes but is not limited to horticultural, viticultural, floricultural, vegetable, fruit, berry, grain, hops, hay, straw, turf, sod, seed, and apiary products; feed or forage for livestock; Christmas trees; hybrid cottonwood and similar hardwood trees grown as crops and harvested within twenty years of planting; and livestock including both the animals themselves and animal products including but not limited to meat, upland finfish, poultry and poultry products, and dairy products;

(c) "Agricultural equipment" and "agricultural facilities" includes, but is not limited to: (i) The following used in agricultural operations: Equipment; machinery; constructed shelters, buildings, and ponds; fences; upland finfish rearing facilities; water diversion, withdrawal, conveyance, and use equipment and facilities including but not limited to pumps, pipes, tapes, canals, ditches, and drains; (ii) corridors and facilities for transporting personnel, livestock, and equipment to, from, and within agricultural lands; (iii) farm residences and associated equipment, lands, and facilities; and (iv) roadside stands and on-farm markets for marketing fruit or vegetables; and

(d) "Agricultural land" means those specific land areas on which agriculture activities are conducted.

(3) The department and local governments shall assure that local shoreline master programs use definitions consistent with the definitions in this section.

NEW SECTION. Sec. 2. The provisions of this act do not become effective until the earlier of either January 1, 2004, or the date the department of ecology amends or updates chapter 173-16 or 173-26 WAC.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 299

[Substitute House Bill 2308]

RECYCLING

AN ACT Relating to recycling and waste reduction; amending RCW 39.04.133, 70.95.010, 70.95.030, and 43.19.1905; adding a new section to chapter 81.77 RCW; adding a new section to chapter 70.95 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The department of general administration shall work with commercial and industrial construction industry organizations to develop guidelines for implementing on-site construction waste management planning. The topics addressed in the guidelines shall include, but shall not be limited to:

- (a) Standards for identifying the type of wastes generated during construction;
- (b) Methods for analyzing the availability and cost-effectiveness of recycling services for each type of waste;
- (c) Methods for evaluating construction waste management alternatives given limited recycling services in rural areas of the state;
- (d) Strategies to maximize reuse and recycling of wastes and minimize landfill disposal;
- (e) Standardized formats for on-site construction waste management planning and reporting documents; and
- (f) A training and technical assistance plan for public and private building owners and construction industry members, in order to facilitate incorporation of waste management planning and recycling into standard construction industry practice.

(2) By December 15, 2002, the department of general administration shall provide a report to the legislature on the development of the guidelines required by subsection (1) of this section. The report shall include recommendations for incorporating job-site waste management planning and recycling into standard construction industry practice.

Sec. 2. RCW 39.04.133 and 1996 c 198 s 5 are each amended to read as follows:

(1) The state's preferences for the purchase and use of recycled content products shall be included as a factor in the design and development of state capital improvement projects.

(2) ~~((Specifications for materials in state construction projects shall include the use of recycled content products and recyclable products whenever practicable.))~~
If a construction project receives state public funding, the product standards, as provided in RCW 43.19A.020, shall apply to the materials used in the project, whenever the administering agency and project owner determine that such products would be cost-effective and are readily available.

(3) This section does not apply to contracts entered into by a municipality.

Sec. 3. RCW 70.95.010 and 1989 c 431 s 1 are each amended to read as follows:

The legislature finds:

(1) Continuing technological changes in methods of manufacture, packaging, and marketing of consumer products, together with the economic and population growth of this state, the rising affluence of its citizens, and its expanding industrial activity have created new and ever-mounting problems involving disposal of garbage, refuse, and solid waste materials resulting from domestic, agricultural, and industrial activities.

(2) Traditional methods of disposing of solid wastes in this state are no longer adequate to meet the ever-increasing problem. Improper methods and practices of handling and disposal of solid wastes pollute our land, air and water resources,

blight our countryside, adversely affect land values, and damage the overall quality of our environment.

(3) Considerations of natural resource limitations, energy shortages, economics and the environment make necessary the development and implementation of solid waste recovery and/or recycling plans and programs.

(4) Waste reduction must become a fundamental strategy of solid waste management. It is therefore necessary to change manufacturing and purchasing practices and waste generation behaviors to reduce the amount of waste that becomes a governmental responsibility.

(5) Source separation of waste must become a fundamental strategy of solid waste management. Collection and handling strategies should have, as an ultimate goal, the source separation of all materials with resource value or environmental hazard.

(6)(a) It (~~is the responsibility~~) should be the goal of every person and business to minimize (~~his or her~~) their production of wastes and to separate recyclable or hazardous materials from mixed waste.

(b) It is the responsibility of state, county, and city governments to provide for a waste management infrastructure to fully implement waste reduction and source separation strategies and to process and dispose of remaining wastes in a manner that is environmentally safe and economically sound. It is further the responsibility of state, county, and city governments to monitor the cost-effectiveness and environmental safety of combusting separated waste, processing mixed municipal solid waste, and recycling programs.

(c) It is the responsibility of county and city governments to assume primary responsibility for solid waste management and to develop and implement aggressive and effective waste reduction and source separation strategies.

(d) It is the responsibility of state government to ensure that local governments are providing adequate source reduction and separation opportunities and incentives to all, including persons in both rural and urban areas, and nonresidential waste generators such as commercial, industrial, and institutional entities, recognizing the need to provide flexibility to accommodate differing population densities, distances to and availability of recycling markets, and collection and disposal costs in each community; and to provide county and city governments with adequate technical resources to accomplish this responsibility.

(7) Environmental and economic considerations in solving the state's solid waste management problems requires strong consideration by local governments of regional solutions and intergovernmental cooperation.

(8) The following priorities for the collection, handling, and management of solid waste are necessary and should be followed in descending order as applicable:

(a) Waste reduction;

(b) Recycling, with source separation of recyclable materials as the preferred method;

(c) Energy recovery, incineration, or landfill of separated waste;

(d) Energy recovery, incineration, or ~~((landfilling))~~ landfill of mixed municipal solid wastes.

(9) It is the state's goal to achieve a fifty percent recycling rate by ~~((1995))~~ 2007.

(10) It is the state's goal that programs be established to eliminate residential or commercial yard debris in landfills by 2012 in those areas where alternatives to disposal are readily available and effective.

(11) Steps should be taken to make recycling at least as affordable and convenient to the ratepayer as mixed waste disposal.

~~((11))~~ (12) It is necessary to compile and maintain adequate data on the types and quantities of solid waste that are being generated and to monitor how the various types of solid waste are being managed.

~~((12))~~ (13) Vehicle batteries should be recycled and the disposal of vehicle batteries into landfills or incinerators should be discontinued.

~~((13))~~ (14) Excessive and nonrecyclable packaging of products should be avoided.

~~((14))~~ (15) Comprehensive education should be conducted throughout the state so that people are informed of the need to reduce, source separate, and recycle solid waste.

~~((15))~~ (16) All governmental entities in the state should set an example by implementing aggressive waste reduction and recycling programs at their workplaces and by purchasing products that are made from recycled materials and are recyclable.

~~((16))~~ (17) To ensure the safe and efficient operations of solid waste disposal facilities, it is necessary for operators and regulators of landfills and incinerators to receive training and certification.

~~((17))~~ (18) It is necessary to provide adequate funding to all levels of government so that successful waste reduction and recycling programs can be implemented.

~~((18))~~ (19) The development of stable and expanding markets for recyclable materials is critical to the long-term success of the state's recycling goals. Market development must be encouraged on a state, regional, and national basis to maximize its effectiveness. The state shall assume primary responsibility for the development of a multifaceted market development program to carry out the purposes of this act.

~~((19))~~ (20) There is an imperative need to anticipate, plan for, and accomplish effective storage, control, recovery, and recycling of discarded tires and other problem wastes with the subsequent conservation of resources and energy.

Sec. 4. RCW 70.95.030 and 1998 c 36 s 17 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "City" means every incorporated city and town.
- (2) "Commission" means the utilities and transportation commission.
- (3) "Committee" means the state solid waste advisory committee.
- (4) "Composted material" means organic solid waste that has been subjected to controlled aerobic degradation at a solid waste facility in compliance with the requirements of this chapter. Natural decay of organic solid waste under uncontrolled conditions does not result in composted material.
- (5) "Department" means the department of ecology.
- (6) "Director" means the director of the department of ecology.
- (7) "Disposal site" means the location where any final treatment, utilization, processing, or deposit of solid waste occurs.
- (8) "Energy recovery" means a process operating under federal and state environmental laws and regulations for converting solid waste into usable energy and for reducing the volume of solid waste.
- (9) "Functional standards" means criteria for solid waste handling expressed in terms of expected performance or solid waste handling functions.
- (10) "Incineration" means a process of reducing the volume of solid waste operating under federal and state environmental laws and regulations by use of an enclosed device using controlled flame combustion.
- (11) "Jurisdictional health department" means city, county, city-county, or district public health department.
- (12) "Landfill" means a disposal facility or part of a facility at which solid waste is placed in or on land and which is not a land treatment facility.
- (13) "Local government" means a city, town, or county.
- (14) "Modify" means to substantially change the design or operational plans including, but not limited to, removal of a design element previously set forth in a permit application or the addition of a disposal or processing activity that is not approved in the permit.
- (15) "Multiple family residence" means any structure housing two or more dwelling units.
- (16) "Person" means individual, firm, association, copartnership, political subdivision, government agency, municipality, industry, public or private corporation, or any other entity whatsoever.
- (17) "Recyclable materials" means those solid wastes that are separated for recycling or reuse, such as papers, metals, and glass, that are identified as recyclable material pursuant to a local comprehensive solid waste plan. Prior to the adoption of the local comprehensive solid waste plan, adopted pursuant to RCW 70.95.110(2), local governments may identify recyclable materials by ordinance from July 23, 1989.
- (18) "Recycling" means transforming or remanufacturing waste materials into usable or marketable materials for use other than landfill disposal or incineration.
- (19) "Residence" means the regular dwelling place of an individual or individuals.

(20) "Sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials, generated from a wastewater treatment system, that does not meet the requirements of chapter 70.95J RCW.

(21) "Soil amendment" means any substance that is intended to improve the physical characteristics of the soil, except composted material, commercial fertilizers, agricultural liming agents, unmanipulated animal manures, unmanipulated vegetable manures, food wastes, food processing wastes, and materials exempted by rule of the department, such as biosolids as defined in chapter 70.95J RCW and wastewater as regulated in chapter 90.48 RCW.

(22) "Solid waste" or "wastes" means all putrescible and nonputrescible solid and semisolid wastes including, but not limited to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge, demolition and construction wastes, abandoned vehicles or parts thereof, and recyclable materials.

(23) "Solid waste handling" means the management, storage, collection, transportation, treatment, utilization, processing, and final disposal of solid wastes, including the recovery and recycling of materials from solid wastes, the recovery of energy resources from solid wastes or the conversion of the energy in solid wastes to more useful forms or combinations thereof.

(24) "Source separation" means the separation of different kinds of solid waste at the place where the waste originates.

(25) "Vehicle" includes every device physically capable of being moved upon a public or private highway, road, street, or watercourse and in, upon, or by which any person or property is or may be transported or drawn upon a public or private highway, road, street, or watercourse, except devices moved by human or animal power or used exclusively upon stationary rails or tracks.

(26) "Waste-derived soil amendment" means any soil amendment as defined in this chapter that is derived from solid waste as defined in RCW 70.95.030, but does not include biosolids or biosolids products regulated under chapter 70.95J RCW or wastewaters regulated under chapter 90.48 RCW.

(27) "Waste reduction" means reducing the amount or toxicity of waste generated or reusing materials.

(28) "Yard debris" means plant material commonly created in the course of maintaining yards and gardens, and through horticulture, gardening, landscaping, or similar activities. Yard debris includes but is not limited to grass clippings, leaves, branches, brush, weeds, flowers, roots, windfall fruit, vegetable garden debris, holiday trees, and tree prunings four inches or less in diameter.

Sec. 5. RCW 43.19.1905 and 1995 c 269 s 1402 are each amended to read as follows:

The director of general administration shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

- (1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;
- (2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;
- (3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;
- (4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;
- (5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;
- (6) Determination of what function data processing equipment, including remote terminals, shall perform in statewide purchasing and material control for improvement of service and promotion of economy;
- (7) Standardization of records and forms used statewide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;
- (8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;
- (9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;
- (10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;
- (11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;
- (12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;
- (13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;
- (14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;
- (15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters which require the establishment of overall statewide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002);

(21) Development of goals for state use of recycled or environmentally preferable products through specifications for products and services, processes for requests for proposals and requests for qualifications, contractor selection, and contract negotiations.

NEW SECTION. **Sec. 6.** A new section is added to chapter 81.77 RCW to read as follows:

(1) The commission shall allow solid waste collection companies collecting recyclable materials to retain up to thirty percent of the revenue paid to the companies for the material if the companies submit a plan to the commission that is certified by the appropriate local government authority as being consistent with the local government solid waste plan and that demonstrates how the revenues will be used to increase recycling. The remaining revenue shall be passed to residential customers.

(2) By December 2, 2005, the commission shall provide a report to the legislature that evaluates:

(a) The effectiveness of revenue sharing as an incentive to increase recycling in the state; and

(b) The effect of revenue sharing on costs to customers.

NEW SECTION. **Sec. 7.** The department of ecology shall designate a portion of the responsibilities of existing staff to investigate and draw conclusions by December 31, 2002, on the following:

(1) The use of scrap tires as alternative daily cover for landfills. This shall include, but not be limited to, a review of alternative daily cover specifications that

have been developed by other states, and either an analysis of those specifications' applicability to Washington or recommendations for developing alternative daily cover specifications that are unique to Washington;

(2) The feasibility of establishing and maintaining an incentive program for market development for scrap tires. This shall include, but not be limited to, the results of research into the availability of funding for such a program and proposed criteria for the program that favors projects utilizing higher end value uses of scrap tires.

NEW SECTION. Sec. 8. The department of transportation, in consultation with the office of general administration when needed, shall designate a portion of the responsibilities of existing staff to evaluate scrap tire use for civil engineering and highway construction applications by November 30, 2003. The evaluation shall include:

(1) An analysis of the feasibility of using scrap tires in lightweight fills given the standards and specifications adopted by the federal highway administration and other states; and

(2) An analysis of the feasibility of using rubber-modified asphalt in highway projects, including any changes in the cost of such procedures from the costs reported in the department of transportation's 1992 report to the legislature on the use of recycled materials in highway construction.

NEW SECTION. Sec. 9. A new section is added to chapter 70.95 RCW to read as follows:

The department of ecology, in conjunction with the appropriate private sector stakeholders, shall track and report annually to the legislature the total increase or reduction of tire recycling or reuse rates in the state for each calendar year and for the cumulative calendar years from the effective date of this act.

Passed the House February 15, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 300

[House Bill 2317]

INSURANCE—TECHNICAL CHANGES

AN ACT Relating to technical changes to Title 48 RCW; amending RCW 48.87.020, 48.87.040, 48.66.130, 48.07.040, and 48.43.055; and adding a new section to chapter 48.66 RCW.

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

Sec. 1. RCW 48.87.020 and 1993 c 112 s 2 are each amended to read as follows:

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

(1) "Association" means the joint underwriting association established under this chapter.

(2) "Midwifery and birth center malpractice insurance" means insurance coverage against the legal liability of the insured and against loss damage or expense incident to a claim arising out of the death or injury of a person as a result of negligence or malpractice in rendering professional service by a licensee.

(3) "Licensee" means a person or facility licensed to provide midwifery services under chapter 18.50, ~~((18-88))~~ 18.79, or 18.46 RCW.

Sec. 2. RCW 48.87.040 and 1993 c 112 s 4 are each amended to read as follows:

The association shall be comprised of all insurers possessing a certificate of authority to write and engaged in writing medical malpractice insurance within this state and general casualty companies. Every insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact business in this state. Only licensed midwives under chapter 18.50 RCW, certified nurse midwives licensed under chapter ~~((18-88))~~ 18.79 RCW, or birth centers licensed under chapter 18.46 RCW may participate in the joint underwriting authority.

Sec. 3. RCW 48.66.130 and 1995 c 85 s 2 are each amended to read as follows:

(1) On or after January 1, 1996, and notwithstanding any other provision of Title 48 RCW, a medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than three months from the effective date of coverage because it involved a preexisting condition.

(2) On or after January 1, 1996, a medicare supplement policy or certificate shall not define a preexisting condition more restrictively than as a condition for which medical advice was given or treatment was recommended by or received from a physician, or other health care provider acting within the scope of his or her license, within three months before the effective date of coverage.

(3) If a medicare supplement insurance policy or certificate contains any limitations with respect to preexisting conditions, such limitations must appear as a separate paragraph of the policy or certificate and be labeled as "Preexisting Condition Limitations."

(4) No exclusion or limitation of preexisting conditions may be applied to policies or certificates replaced in accordance with the provisions of RCW 48.66.045 if the policy or certificate replaced had been in effect for at least three months.

NEW SECTION. Sec. 4. A new section is added to chapter 48.66 RCW to read as follows:

(1) Under this section, persons eligible for a medicare supplement policy or certificate are those individuals described in subsection (3) of this section who, subject to subsection (3)(b)(ii) of this section, apply to enroll under the policy not

later than sixty-three days after the date of the termination of enrollment described in subsection (3) of this section, and who submit evidence of the date of termination or disenrollment with the application for a medicare supplement policy.

(2) With respect to eligible persons, an issuer may not deny or condition the issuance or effectiveness of a medicare supplement policy described in subsection (4) of this section that is offered and is available for issuance to new enrollees by the issuer, shall not discriminate in the pricing of such a medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and shall not impose an exclusion of benefits based on a preexisting condition under such a medicare supplement policy.

(3) "Eligible persons" means an individual that meets the requirements of (a), (b), (c), (d), (e), or (f) of this subsection, as follows:

(a) The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual;

(b)(i) The individual is enrolled with a medicare+choice organization under a medicare+choice plan under part C of medicare, and any of the following circumstances apply, or the individual is sixty-five years of age or older and is enrolled with a program of all inclusive care for the elderly (PACE) provider under section 1894 of the social security act, and there are circumstances similar to those described in this subsection (3)(b) that would permit discontinuance of the individual's enrollment with the provider if the individual were enrolled in a medicare+choice plan:

(A) The certification of the organization or plan under this subsection (3)(b) has been terminated, or the organization or plan has notified the individual of an impending termination of such a certification;

(B) The organization has terminated or otherwise discontinued providing the plan in the area in which the individual resides, or has notified the individual of an impending termination or discontinuance of such a plan;

(C) The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the secretary of the United States department of health and human services, but not including termination of the individual's enrollment on the basis described in section 1851(g)(3)(B) of the federal social security act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under section 1856 of the federal social security act), or the plan is terminated for all individuals within a residence area;

(D) The individual demonstrates, in accordance with guidelines established by the secretary of the United States department of health and human services, that:

(I) The organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary

care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or

(II) The organization, an agent, or other entity acting on the organization's behalf materially misrepresented the plan's provisions in marketing the plan to the individual; or

(E) The individual meets other exceptional conditions as the secretary of the United States department of health and human services may provide.

(ii)(A) An individual described in (b)(i) of this subsection may elect to apply (a) of this subsection by substituting, for the date of termination of enrollment, the date on which the individual was notified by the medicare+choice organization of the impending termination or discontinuance of the medicare+choice plan it offers in the area in which the individual resides, but only if the individual disenrolls from the plan as a result of such notification.

(B) In the case of an individual making the election under (b)(ii)(A) of this subsection, the issuer involved shall accept the application of the individual submitted before the date of termination of enrollment, but the coverage under subsection (I) of this section shall only become effective upon termination of coverage under the medicare+choice plan involved;

(c)(i) The individual is enrolled with:

(A) An eligible organization under a contract under section 1876 (medicare risk or cost);

(B) A similar organization operating under demonstration project authority, effective for periods before April 1, 1999;

(C) An organization under an agreement under section 1833(a)(I)(A) (health care prepayment plan); or

(D) An organization under a medicare select policy; and

(ii) The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under (b)(i) of this subsection;

(d) The individual is enrolled under a medicare supplement policy and the enrollment ceases because:

(i)(A) Of the insolvency of the issuer or bankruptcy of the nonissuer organization; or

(B) Of other involuntary termination of coverage or enrollment under the policy;

(ii) The issuer of the policy substantially violated a material provision of the policy; or

(iii) The issuer, an agent, or other entity acting on the issuer's behalf materially misrepresented the policy's provisions in marketing the policy to the individual;

(e)(i) The individual was enrolled under a medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any medicare+choice organization under a medicare+choice plan under part C of medicare, any eligible organization under a contract under section 1876 (medicare

risk or cost), any similar organization operating under demonstration project authority, any PACE program under section 1894 of the social security act, an organization under an agreement under section 1833(a)(1)(A) (health care prepayment plan), or a medicare select policy; and

(ii) The subsequent enrollment under (e)(i) of this subsection is terminated by the enrollee during any period within the first twelve months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under section 1851(e) of the federal social security act); or

(f) The individual, upon first becoming eligible for benefits under part A of medicare at age sixty-five, enrolls in a medicare+choice plan under part C of medicare, or in a PACE program under section 1894, and disenrolls from the plan or program by not later than twelve months after the effective date of enrollment.

(4) An eligible person under subsection (3) of this section is entitled to a medicare supplement policy as follows:

(a) A person eligible under subsection (3)(a), (b), (c), and (d) of this section is entitled to a medicare supplement policy that has a benefit package classified as plan A through G offered by any issuer;

(b) A person eligible under subsection (3)(e) of this section is entitled to the same medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in (a) of this subsection; and

(c) A person eligible under subsection (3)(f) of this section is entitled to any medicare supplement policy offered by any issuer.

(5)(a) At the time of an event described in subsection (3) of this section, and because of which an individual loses coverage or benefits due to the termination of a contract, agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated contemporaneously with the notification of termination.

(b) At the time of an event described in subsection (3) of this section, and because of which an individual ceases enrollment under a contract, agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, must notify the individual of his or her rights under this section, and of the obligations of issuers of medicare supplement policies under subsection (1) of this section. The notice must be communicated within ten working days of the issuer receiving notification of disenrollment.

Sec. 5. RCW 48.07.040 and 1985 c 364 s 2 are each amended to read as follows:

Each incorporated domestic insurer shall (~~(, in the month of January, February, March, or April,)~~) hold ~~((the))~~ an annual meeting of its shareholders or members

at such time and place as may be stated in or fixed in accordance with its bylaws for the purpose of receiving reports of its affairs and to elect directors. Each domestic insurance holding corporation shall hold an annual meeting of its shareholders at such time and place as may be stated in or fixed in accordance with its bylaws. Special meetings of the shareholders of an incorporated domestic insurer or domestic insurance holding corporation shall be called and held by such persons and in such a manner as stated in the articles of incorporation or bylaws.

Sec. 6. RCW 48.43.055 and 1995 c 265 s 20 are each amended to read as follows:

Each health carrier as defined under RCW 48.43.005 shall file with the commissioner its procedures for review and adjudication of complaints initiated by ~~((covered persons or))~~ health care providers. Procedures filed under this section shall provide a fair review for consideration of complaints. Every health carrier shall provide reasonable means ~~((whereby))~~ allowing any ((person)) health care provider aggrieved by actions of the health carrier ~~((may))~~ to be heard ((in person or by their authorized representative on their)) after submitting a written request for review. If the health carrier fails to grant or reject ~~((such))~~ a request within thirty days after it is made, the complaining ~~((person))~~ health care provider may proceed as if the complaint had been rejected. A complaint that has been rejected by the health carrier may be submitted to nonbinding mediation. Mediation shall be conducted ~~((pursuant to))~~ under mediation rules similar to those of the American arbitration association, the center for public resources, the judicial arbitration and mediation service, RCW 7.70.100, or any other rules of mediation agreed to by the parties. This section is solely for resolution of provider complaints. Complaints by, or on behalf of, a covered person are subject to the grievance processes in RCW 48.43.530.

Passed the House February 12, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 301

[Engrossed Substitute House Bill 2323]

COMMERCIAL FISHING

AN ACT Relating to commercial fishers; amending RCW 77.65.280, 77.15.565, 77.15.620, 77.15.640, 36.71.090, and 69.07.100; adding new sections to chapter 77.65 RCW; adding a new section to chapter 69.04 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 finds that commercial fishing is vital important not just to the economy of Washington, but also to the cultural heritage of the maritime communities in the state. Fisher men and women have a long and proud history in the Pacific Northwest. State and local governments

should seek out ways to enable and encourage these professionals to share the rewards of their craft with the nonfishing citizens of and visitors to the state of Washington by encouraging the exploration and development of new niche markets.

NEW SECTION. Sec. 2. A new section is added to chapter 77.65 RCW to read as follows:

(1) The department must establish and administer a direct retail endorsement to serve as a single license that permits the holder of a Washington salmon or crab commercial fishing license to clean, dress, and sell his or her catch directly to consumers at retail, including over the internet. The direct retail endorsement must be issued as an optional addition to all holders of a salmon or crab commercial fishing license that the department offers under this chapter.

(2) The direct retail endorsement must be offered at the time of application for the qualifying commercial fishing license. Individuals in possession of a qualifying commercial fishing license issued under this chapter may add a direct retail endorsement to their current license at the time they renew their commercial fishing license. Individuals who do not have a commercial fishing license for salmon or crab issued under this chapter may not receive a direct retail endorsement. The costs, conditions, responsibilities, and privileges associated with the endorsed commercial fishing license is not affected or altered in any way by the addition of a direct retail endorsement. These costs include the base cost of the license and any revenue and excise taxes.

(3) An individual need only add one direct retail endorsement to his or her license portfolio. If a direct retail endorsement is selected by an individual holding more than one commercial fishing license issued under this chapter, a single direct retail endorsement is considered to be added to all qualifying commercial fishing licenses held by that individual, and is the only license required for the individual to sell at retail the harvest of salmon or crab permitted by all of the underlying endorsed licenses. The direct retail endorsement applies only to the person named on the endorsed license, and may not be used by an alternate operator named on the endorsed license.

(4) In addition to any fees charged for the endorsed licenses and harvest documentation as required by this chapter or the rules of the department, the department may set a reasonable annual fee not to exceed the administrative costs to the department for a direct retail endorsement.

(5) The holder of a direct retail endorsement is responsible for documenting the commercial harvest of salmon and crab according to the provisions of this chapter, the rules of the department for a wholesale fish dealer, and the reporting requirements of the endorsed license. Any salmon or crab caught by the holder of a direct retail endorsement must be landed in the round and documented on fish tickets, as provided for by the department, before further processing.

(6) The direct retail endorsement must be displayed in a readily visible manner by the seller wherever and whenever a sale to someone other than a licensed

wholesale dealer occurs. For sales occurring in a venue other than in person, such as over the internet, through a catalog, or on the phone, the direct retail endorsement number of the seller must be provided to the buyer both at the time of sale and the time of delivery. All internet sales must be conducted in accordance with federal laws and regulations.

(7) The direct retail endorsement is to be held by a natural person and is not transferrable or assignable. If the endorsed license is transferred, the direct retail endorsement immediately becomes void, and the transferor is not eligible for a full or prorated reimbursement of the annual fee paid for the direct retail endorsement. Upon becoming void, the holder of a direct retail endorsement must surrender the physical endorsement to the department.

(8) The holder of a direct retail endorsement must abide by the provisions of Title 69 RCW as they apply to the processing and retail sale of seafood. The department must distribute a pamphlet, provided by the department of agriculture, with the direct retail endorsement generally describing the labeling requirements set forth in chapter 69.04 RCW as they apply to seafood.

(9) The holder of a qualifying commercial fishing license issued under this chapter must either possess a direct retail endorsement or a wholesale dealer license provided for in RCW 77.65.280 in order to lawfully sell their catch or harvest in the state to anyone other than a licensed wholesale dealer.

(10) The direct retail endorsement entitles the holder to sell wild-caught salmon or crab only at a temporary food service establishment as that term is defined in RCW 69.06.045.

NEW SECTION. Sec. 3. A new section is added to chapter 77.65 RCW to read as follows:

(1) Prior to being issued a direct retail endorsement, an individual must:

(a) Obtain and submit to the department a signed letter on appropriate letterhead from the health department of the county in which the individual makes his or her official residence or where the hailing port for any documented vessel owned by the individual is located as to the fulfillment of all requirements related to county health rules, including the payment of all required fees. The local health department generating the letter may charge a reasonable fee for any necessary inspections. The letter must certify that the methods used by the individual to transport, store, and display fresh salmon and crabs meets that county's standards and the statewide standards adopted by the board of health for food service operations; and

(b) Submit proof to the department that the individual making the direct retail sales is in possession of a valid food and beverage service worker's permit, as provided for in chapter 69.06 RCW.

(2) The requirements of subsection (1) of this section must be completed each license year before a renewal direct retail endorsement can be issued.

(3) Any individual possessing a direct retail endorsement must notify the local health department of the county in which retail sales are to occur, except for the

county that conducted the initial inspection, forty-eight hours before any transaction and make his or her facilities available for inspection by a fish and wildlife officer, the local health department of any county in which he or she sells salmon or crab, and any designee of the department of health or the department of agriculture.

(4) Neither the department or a local health department may be held liable in any judicial proceeding alleging that consumption of or exposure to seafood sold by the holder of a direct retail endorsement resulted in a negative health consequence, as long as the department can show that the individual holding the direct retail endorsement complied with the requirements of subsection (1) of this section prior to being issued his or her direct retail license, and neither the department nor a local health department acted in a reckless manner. For the purposes of this subsection, the department or a local health district shall not be deemed to be acting recklessly for not conducting a permissive inspection.

NEW SECTION. **Sec. 4.** A new section is added to chapter 77.65 RCW to read as follows:

(1) The direct retail endorsement is conditioned upon compliance:

(a) With the requirements of this chapter as they apply to wholesale fish dealers and to the rules of the department relating to the payment of fines for violations of rules for the accounting of the commercial harvest of salmon or crabs; and

(b) With the state board of health and local rules for food service establishments.

(2) Violations of the requirements and rules referenced in subsection (1) of this section may result in the suspension of the direct retail endorsement. The suspended individual must not be reimbursed for any portion of the suspended endorsement. Suspension of the direct retail endorsement may not occur unless and until:

(a) The director has notified by order the holder of the direct retail endorsement when a violation of subsection (1) of this section has occurred. The notification must specify the type of violation, the liability to be imposed for damages caused by the violation, a notice that the amount of liability is due and payable by the holder of the direct retail endorsement, and an explanation of the options available to satisfy the liability; and

(b) The holder of the direct retail endorsement has had at least ninety days after the notification provided in (a) of this subsection was received to either make full payment for all liabilities owed or enter into an agreement with the department to pay off all liabilities within a reasonable time.

(3)(a) If, within ninety days after receipt of the order provided in subsection (2)(a) of this section, the amount specified in the order is not paid or the holder of the direct retail endorsement has not entered into an agreement with the department to pay off all liabilities, the prosecuting attorney for any county in which the persons to whom the order is directed do business, or the attorney general upon

request of the department, may bring an action on behalf of the state in the superior court for Thurston county, or any county in which the persons to whom the order is directed do business, to seek suspension of the individual's direct retail endorsement for up to five years.

(b) The department may temporarily suspend the privileges provided by the direct retail endorsement for up to one hundred twenty days following the receipt of the order provided in subsection (2)(a) of this section, unless the holder of the direct retail endorsement has deposited with the department an acceptable performance bond on forms prescribed and provided by the department. This performance bond must be a corporate surety bond executed in favor of the department by a corporation authorized to do business in the state of Washington under chapter 48.28 RCW and approved by the department. The bond must be filed and maintained in an amount equal to one thousand dollars.

(4) For violations of state board of health and local rules under subsection (1)(b) of this section only, any person inspecting the facilities of a direct retail endorsement holder under section 3 of this act may suspend the privileges granted by the endorsement for up to seven days. Within twenty-four hours of the discovery of the violation, the inspecting entity must notify the department of the violation. Upon notification, the department may proceed with the procedures outlined in this section for suspension of the endorsement. If the violation of a state board of health rule is discovered by a local health department, that local jurisdiction may fine the holder of the direct retail endorsement according to the local jurisdiction's rules as they apply to retail food operations.

(5) Subsections (2) and (3) of this section do not apply to a holder of a direct retail endorsement that executes a surety bond and abides by the conditions established in RCW 77.65.320 and 77.65.330 as they apply to wholesale dealers.

Sec. 5. RCW 77.65.280 and 2000 c 107 s 48 are each amended to read as follows:

A wholesale fish dealer's license is required for:

(1) A business in the state to engage in the commercial processing of food fish or shellfish, including custom canning or processing of personal use food fish or shellfish.

(2) A business in the state to engage in the wholesale selling, buying, or brokering of food fish or shellfish. A wholesale fish dealer's license is not required of those businesses which buy exclusively from Washington licensed wholesale dealers and sell solely at retail.

(3) Fishermen who land and sell their catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state, unless the fisher has a direct retail endorsement.

(4) A business to engage in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish.

(5) A business employing a fish buyer as defined under RCW 77.65.340.

The annual license fee for a wholesale dealer is two hundred fifty dollars. A wholesale fish dealer's license is not required for persons engaged in the processing, wholesale selling, buying, or brokering of private sector cultured aquatic products as defined in RCW 15.85.020. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

Sec. 6. RCW 77.15.565 and 2000 c 107 s 12 are each amended to read as follows:

Since violation of the rules of the department relating to the accounting of the commercial harvest of food fish and shellfish result in damage to the resources of the state, liability for damage to food fish and shellfish resources is imposed on a wholesale fish dealer or the holder of a direct retail endorsement for violation of a provision in chapter 77.65 RCW or a rule of the department related to the accounting of the commercial harvest of food fish and shellfish and shall be for the actual damages or for damages imposed as follows:

(1) For violation of rules requiring the timely presentation to the department of documents relating to the accounting of commercial harvest, fifty dollars for each of the first fifteen documents in a series and ten dollars for each subsequent document in the same series. If documents relating to the accounting of commercial harvest of food fish and shellfish are lost or destroyed and the wholesale dealer or holder of a direct retail endorsement notifies the department in writing within seven days of the loss or destruction, the director shall waive the requirement for timely presentation of the documents.

(2) For violation of rules requiring accurate and legible information relating to species, value, harvest area, or amount of harvest, twenty-five dollars for each of the first five violations of this subsection following July 28, 1985, and fifty dollars for each violation after the first five violations.

(3) For violations of rules requiring certain signatures, fifty dollars for each of the first two violations and one hundred dollars for each subsequent violation. For the purposes of this subsection, each signature is a separate requirement.

(4) For other violations of rules relating to the accounting of the commercial harvest, fifty dollars for each separate violation.

Sec. 7. RCW 77.15.620 and 2000 c 107 s 253 are each amended to read as follows:

(1) A person is guilty of engaging in fish dealing activity without a license in the second degree if the person:

(a) Engages in the commercial processing of fish or shellfish, including custom canning or processing of personal use fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(1) or 77.65.480 for anadromous game fish, or a direct retail endorsement under section 2 of this act;

(b) Engages in the wholesale selling, buying, or brokering of food fish or shellfish and does not hold a wholesale dealer's or buying license required by RCW 77.65.280(2) or 77.65.480 for anadromous game fish;

(c) Is a fisher who lands and sells his or her catch or harvest in the state to anyone other than a licensed wholesale dealer within or outside the state and does not hold a ~~((wholesale dealer's license required by RCW 77.65.280(3) or 77.65.480 for anadromous game fish))~~ direct retail endorsement required by section 2 of this act; or

(d) Engages in the commercial manufacture or preparation of fertilizer, oil, meal, caviar, fish bait, or other byproducts from food fish or shellfish and does not hold a wholesale dealer's license required by RCW 77.65.280(4) or 77.65.480 for anadromous game fish.

(2) Engaging in fish dealing activity without a license in the second degree is a gross misdemeanor.

(3) A person is guilty of engaging in fish dealing activity without a license in the first degree if the person commits the act described by subsection (1) of this section and the violation involves fish or shellfish worth two hundred fifty dollars or more. Engaging in fish dealing activity without a license in the first degree is a class C felony.

Sec. 8. RCW 77.15.640 and 2000 c 107 s 255 are each amended to read as follows:

(1) A person who holds a wholesale fish dealer's license required by RCW 77.65.280, an anadromous game fish buyer's license required by RCW 77.65.480, ~~((or))~~ a fish buyer's license required by RCW 77.65.340, or a direct retail endorsement under section 2 of this act is guilty of violating rules governing wholesale fish buying and dealing if the person:

(a) Fails to possess or display his or her license when engaged in any act requiring the license;

(b) Fails to display or uses the license in violation of any rule of the department;

(c) Files a signed fish-receiving ticket but fails to provide all information required by rule of the department; or

(d) Violates any other rule of the department regarding wholesale fish buying and dealing.

(2) Violating rules governing wholesale fish buying and dealing is a gross misdemeanor.

Sec. 9. RCW 36.71.090 and 1984 c 25 s 4 are each amended to read as follows:

(1) It shall be lawful for any farmer, gardener, or other person, without license, to sell, deliver, or peddle any fruits, vegetables, berries, eggs, or any farm produce or edibles raised, gathered, produced, or manufactured by such person and no city or town shall pass or enforce any ordinance prohibiting the sale by or requiring license from the producers and manufacturers of farm produce and edibles as

herein defined: PROVIDED, That nothing herein authorizes any person to sell, deliver, or peddle, without license, in any city or town, any dairy product, meat, poultry, eel, fish, mollusk, or shellfish where a license is required to engage legally in such activity in such city or town.

(2) It is lawful for an individual in possession of a valid direct retail endorsement, as established in section 2 of this act, to sell, deliver, or peddle wild-caught salmon or crab that is caught, harvested, or collected under rule of the department of fish and wildlife by such a person at a temporary food service establishment, as that term is defined in RCW 69.06.045, and no city, town, or county may pass or enforce an ordinance prohibiting the sale by or requiring additional licenses or permits from the holder of the valid direct retail endorsement. However, this subsection does not prohibit a city, town, or county from inspecting an individual displaying a direct retail endorsement to verify that the person is in compliance with state board of health and local rules for food service operations.

Sec. 10. RCW 69.07.100 and 1995 c 374 s 22 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 69.25 RCW, the Washington wholesome eggs and egg products act;

(2) Chapter 69.28 RCW, the Washington state honey act;

(3) Chapter 16.49 RCW, the Meat inspection act;

(4) Chapter 77.65 RCW, relating to the direct retail endorsement for wild-caught seafood;

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

((5)) (6) Chapter 69.30 RCW, the Sanitary control of shellfish act(= PROVIDED, That)). However, 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.

NEW SECTION. Sec. 11. A new section is added to chapter 69.04 RCW to read as follows:

The department of agriculture must develop a pamphlet that generally describes the labeling requirements for seafood, as set forth in this chapter, and provide an adequate quantity of the pamphlets to the department of fish and wildlife to distribute with the issuance of a direct retail endorsement under section 2 of this act.

NEW SECTION. Sec. 12. This act takes effect July 1, 2002.

Passed the House March 12, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 302

[Second Substitute House Bill 2346]

UNIFORM PARENTAGE ACT

AN ACT Relating to the uniform parentage act; amending RCW 5.44.140, 5.62.030, 9.41.070, 9.41.800, 74.20.310, 74.20.360, 74.20A.056, and 70.58.080; adding new sections to chapter 26.26 RCW; repealing RCW 26.26.010, 26.26.020, 26.26.030, 26.26.035, 26.26.040, 26.26.050, 26.26.060, 26.26.070, 26.26.080, 26.26.090, 26.26.100, 26.26.110, 26.26.120, 26.26.137, 26.26.170, 26.26.180, 26.26.200, 26.26.900, 26.26.901, and 26.26.905; prescribing penalties; and providing an effective date.

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

ARTICLE 1

GENERAL PROVISIONS

NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and cited as the uniform parentage act.

NEW SECTION. **Sec. 102.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Acknowledged father" means a man who has established a father-child relationship under sections 301 through 316 of this act.

(2) "Adjudicated father" means a man who has been adjudicated by a court of competent jurisdiction to be the father of a child.

(3) "Alleged father" means a man who alleges himself to be, or is alleged to be, the genetic father or a possible genetic father of a child, but whose paternity has not been determined. The term does not include:

(a) A presumed father;

(b) A man whose parental rights have been terminated or declared not to exist;

or

(c) A male donor.

(4) "Assisted reproduction" means a method of causing pregnancy other than sexual intercourse. The term includes:

(a) Intrauterine insemination;

(b) Donation of eggs;

(c) Donation of embryos;

(d) In vitro fertilization and transfer of embryos; and

(e) Intracytoplasmic sperm injection.

(5) "Child" means an individual of any age whose parentage may be determined under this chapter.

(6) "Commence" means to file the petition seeking an adjudication of parentage in a superior court of this state or to serve a summons and the petition.

(7) "Determination of parentage" means the establishment of the parent-child relationship by the signing of a valid acknowledgment of paternity under sections 301 through 316 of this act or adjudication by the court.

(8) "Donor" means an individual who produces eggs or sperm used for assisted reproduction, whether or not for consideration. The term does not include:

(a) A husband who provides sperm, or a wife who provides eggs, to be used for assisted reproduction by the wife; or

(b) A woman who gives birth to a child by means of assisted reproduction, except as otherwise provided in RCW 26.26.210 through 26.26.260 or section 608 of this act.

(9) "Ethnic or racial group" means, for purposes of genetic testing, a recognized group that an individual identifies as all or part of his or her ancestry or that is so identified by other information.

(10) "Genetic testing" means an analysis of genetic markers only to exclude or identify a man as the father or a woman as the mother of a child. The term includes an analysis of one or a combination of the following:

(a) Deoxyribonucleic acid; and

(b) Blood-group antigens, red-cell antigens, human-leukocyte antigens, serum enzymes, serum proteins, or red-cell enzymes.

(11) "Man" means a male individual of any age.

(12) "Parent" means an individual who has established a parent-child relationship under section 201 of this act.

(13) "Parent-child relationship" means the legal relationship between a child and a parent of the child. The term includes the mother-child relationship and the father-child relationship.

(14) "Paternity index" means the likelihood of paternity calculated by computing the ratio between:

(a) The likelihood that the tested man is the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is the father of the child; and

(b) The likelihood that the tested man is not the father, based on the genetic markers of the tested man, mother, and child, conditioned on the hypothesis that the tested man is not the father of the child and that the father is from the same ethnic or racial group as the tested man.

(15) "Presumed father" means a man who, under section 204 of this act, is recognized to be the father of a child until that status is rebutted or confirmed in a judicial proceeding.

(16) "Probability of paternity" means the measure, for the ethnic or racial group to which the alleged father belongs, of the probability that the individual in question is the father of the child, compared with a random, unrelated man of the same ethnic or racial group, expressed as a percentage incorporating the paternity index and a prior probability.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Signatory" means an individual who authenticates a record and is bound by its terms.

(19) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, any territory or insular possession subject to the jurisdiction of the United States, or an Indian tribe or band, or Alaskan native village, that is recognized by federal law or formally acknowledged by state law.

(20) "Support enforcement agency" means a public official or agency authorized to seek:

- (a) Enforcement of support orders or laws relating to the duty of support;
- (b) Establishment or modification of child support;
- (c) Determination of parentage; or
- (d) Location of child support obligors and their income and assets.

NEW SECTION. Sec. 103. SCOPE OF ACT—CHOICE OF LAW. (1) This chapter governs every determination of parentage in this state.

(2) The court shall apply the law of this state to adjudicate the parent-child relationship. The applicable law does not depend on:

- (a) The place of birth of the child; or
- (b) The past or present residence of the child.

(3) This chapter does not create, enlarge, or diminish parental rights or duties under other law of this state.

(4) If a birth results under a surrogate parentage contract that is unenforceable under the law of this state, the parent-child relationship is determined as provided in sections 201 through 204 of this act.

NEW SECTION. Sec. 104. COURT OF THIS STATE. The superior courts of this state are authorized to adjudicate parentage under this chapter.

NEW SECTION. Sec. 105. PROTECTION OF PARTICIPANTS. Proceedings under this chapter are subject to other law of this state governing the health, safety, privacy, and liberty of a child or other individuals that could be jeopardized by disclosure of identifying information, including the address, telephone number, place of employment, social security number, and the child's day-care facility and school.

NEW SECTION. Sec. 106. DETERMINATION OF MATERNITY. The provisions relating to determination of paternity may be applied to a determination of maternity.

ARTICLE 2
PARENT-CHILD RELATIONSHIP

NEW SECTION. Sec. 201. ESTABLISHMENT OF PARENT-CHILD RELATIONSHIP. (1) The mother-child relationship is established between a child and a woman by:

- (a) The woman's having given birth to the child, except as otherwise provided in RCW 26.26.210 through 26.26.260;
- (b) An adjudication of the woman's maternity;
- (c) Adoption of the child by the woman;
- (d) A valid surrogate parentage contract, under which the mother is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260; or
- (e) An affidavit and physician's certificate in a form prescribed by the department of health wherein the donor of ovum or surrogate gestation carrier sets forth her intent to be legally bound as the parent of a child or children born through alternative reproductive medical technology by filing the affidavit and physician's certificate with the registrar of vital statistics within ten days after the date of the child's birth pursuant to section 608 of this act.

(2) The father-child relationship is established between a child and a man by:

- (a) An un rebutted presumption of the man's paternity of the child under section 204 of this act;
- (b) The man's having signed an acknowledgment of paternity under sections 301 through 316 of this act, unless the acknowledgment has been rescinded or successfully challenged;
- (c) An adjudication of the man's paternity;
- (d) Adoption of the child by the man;
- (e) The man's having consented to assisted reproduction by his wife under sections 601 through 607 of this act that resulted in the birth of the child; or
- (f) A valid surrogate parentage contract, under which the father is an intended parent of the child, as provided in RCW 26.26.210 through 26.26.260.

NEW SECTION. Sec. 202. NO DISCRIMINATION BASED ON MARITAL STATUS. A child born to parents who are not married to each other has the same rights under the law as a child born to parents who are married to each other.

NEW SECTION. Sec. 203. CONSEQUENCES OF ESTABLISHMENT OF PARENTAGE. Unless parental rights are terminated, the parent-child relationship established under this chapter applies for all purposes, except as otherwise provided by other law of this state.

NEW SECTION. Sec. 204. PRESUMPTION OF PATERNITY IN CONTEXT OF MARRIAGE. (1) A man is presumed to be the father of a child if:

- (a) He and the mother of the child are married to each other and the child is born during the marriage;

(b) He and the mother of the child were married to each other and the child is born within three hundred days after the marriage is terminated by death, annulment, dissolution of marriage, legal separation, or declaration of invalidity;

(c) Before the birth of the child, he and the mother of the child married each other in apparent compliance with law, even if the attempted marriage is, or could be, declared invalid and the child is born during the invalid marriage or within three hundred days after its termination by death, annulment, dissolution of marriage, legal separation, or declaration of invalidity; or

(d) After the birth of the child, he and the mother of the child have married each other in apparent compliance with law, whether or not the marriage is, or could be declared invalid, and he voluntarily asserted his paternity of the child, and:

(i) The assertion is in a record filed with the state registrar of vital statistics;

(ii) Agreed to be and is named as the child's father on the child's birth certificate; or

(iii) Promised in a record to support the child as his own.

(2) A presumption of paternity established under this section may be rebutted only by an adjudication under sections 501 through 537 of this act.

ARTICLE 3

VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

NEW SECTION. Sec. 301. ACKNOWLEDGMENT OF PATERNITY. The mother of a child and a man claiming to be the father of the child conceived as the result of his sexual intercourse with the mother may sign an acknowledgment of paternity with intent to establish the man's paternity.

NEW SECTION. Sec. 302. EXECUTION OF ACKNOWLEDGMENT OF PATERNITY. (1) An acknowledgment of paternity must:

(a) Be in a record;

(b) Be signed under penalty of perjury by the mother and by the man seeking to establish his paternity;

(c) State that the child whose paternity is being acknowledged:

(i) Does not have a presumed father, or has a presumed father whose full name is stated; and

(ii) Does not have another acknowledged or adjudicated father;

(d) State whether there has been genetic testing and, if so, that the acknowledging man's claim of paternity is consistent with the results of the testing; and

(e) State that the signatories understand that the acknowledgment is the equivalent of a judicial adjudication of paternity of the child and that a challenge to the acknowledgment is permitted only under limited circumstances and is barred after two years.

(2) An acknowledgment of paternity is void if it:

- (a) States that another man is a presumed father, unless a denial of paternity signed by the presumed father is filed with the state registrar of vital statistics;
- (b) States that another man is an acknowledged or adjudicated father; or
- (c) Falsely denies the existence of a presumed, acknowledged, or adjudicated father of the child.

(3) A presumed father may sign an acknowledgment of paternity.

NEW SECTION. Sec. 303. DENIAL OF PATERNITY. A presumed father of a child may sign a denial of his paternity. The denial is valid only if:

(1) An acknowledgment of paternity signed by another man is filed under section 305 of this act;

(2) The denial is in a record, and signed under penalty of perjury; and

(3) The presumed father has not previously:

(a) Acknowledged his paternity, unless the previous acknowledgment has been rescinded under section 307 of this act or successfully challenged under section 308 of this act; or

(b) Been adjudicated to be the father of the child.

NEW SECTION. Sec. 304. RULES FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY. (1) An acknowledgment of paternity and a denial of paternity may be contained in a single document or may be signed in counterparts, and may be filed separately or simultaneously.

(2) An acknowledgment of paternity or a denial of paternity may be signed before the birth of the child.

(3) An acknowledgment and denial of paternity, if any, take effect on the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

(4) An acknowledgment or denial of paternity signed by a minor is valid if otherwise in compliance with this chapter.

NEW SECTION. Sec. 305. EFFECT OF ACKNOWLEDGMENT OR DENIAL OF PATERNITY. (1) Except as otherwise provided in sections 307 and 308 of this act, a valid acknowledgment of paternity filed with the state registrar of vital statistics is equivalent to an adjudication of paternity of a child and confers upon the acknowledged father all the rights and duties of a parent.

(2) Except as otherwise provided in sections 307 and 308 of this act, a valid denial of paternity filed with the state registrar of vital statistics in conjunction with a valid acknowledgment of paternity is equivalent to an adjudication of the nonpaternity of the presumed father and discharges the presumed father from all of the rights and duties of a parent.

NEW SECTION. Sec. 306. FILING FEE. The state registrar of vital statistics may charge a fee for filing an acknowledgment or denial of paternity.

NEW SECTION. Sec. 307. PROCEEDING FOR RESCISSION. A signatory may rescind an acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of:

(1) Sixty days after the effective date of the filing of the acknowledgment or denial, as provided in section 304 of this act; or

(2) The date of the first hearing in a proceeding to which the signatory is a party before a court to adjudicate an issue relating to the child, including a proceeding that establishes support.

NEW SECTION. Sec. 308. CHALLENGE AFTER EXPIRATION OF TIME FOR RESCISSION. (1) After the period for rescission under section 307 of this act has elapsed, a signatory of an acknowledgment or denial of paternity may commence a proceeding to challenge the acknowledgment or denial only:

(a) On the basis of fraud, duress, or material mistake of fact; and

(b) Within two years after the acknowledgment or denial is filed with the state registrar of vital statistics.

(2) A party challenging an acknowledgment or denial of paternity has the burden of proof.

NEW SECTION. Sec. 309. PROCEDURE FOR RESCISSION OR CHALLENGE. (1) Every signatory to an acknowledgment or denial of paternity must be made a party to a proceeding to rescind or challenge the acknowledgment or denial.

(2) For the purpose of rescission of, or challenge to, an acknowledgment or denial of paternity, a signatory submits to personal jurisdiction of this state by signing the acknowledgment or denial, effective upon the filing of the document with the state registrar of vital statistics.

(3) Except for good cause shown, during the pendency of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court may not suspend the legal responsibilities of a signatory arising from an acknowledgment, including the duty to pay child support.

(4) A proceeding to rescind or to challenge an acknowledgment or denial of paternity must be conducted in the same manner as a proceeding to adjudicate parentage under sections 501 through 537 of this act.

(5) At the conclusion of a proceeding to rescind or challenge an acknowledgment or denial of paternity, the court shall order the state registrar of vital statistics to amend the birth record of the child, if appropriate.

NEW SECTION. Sec. 310. RATIFICATION BARRED. A court or administrative agency conducting a judicial or administrative proceeding is not required or permitted to ratify an unchallenged acknowledgment of paternity.

NEW SECTION. Sec. 311. FULL FAITH AND CREDIT. A court of this state shall give full faith and credit to an acknowledgment or denial of paternity effective in another state if the acknowledgment or denial has been signed and is otherwise in compliance with the law of the other state.

NEW SECTION. Sec. 312. FORMS FOR ACKNOWLEDGMENT AND DENIAL OF PATERNITY. (1) To facilitate compliance with sections 301 through 311 of this act, the state registrar of vital statistics shall prescribe forms for

the acknowledgment and the denial of paternity. The acknowledgment of paternity shall state, in prominent lettering, that signing the acknowledgment of paternity is equivalent to an adjudication of paternity and confers upon the acknowledged father all the rights and duties of a parent, such as the payment of child support, if the acknowledgment is not challenged or rescinded as prescribed under sections 303 through 309 of this act. The form shall include copies of the provisions in sections 303 through 309 of this act.

(2) A valid acknowledgment or denial of paternity is not affected by a later modification of the prescribed form.

NEW SECTION. Sec. 313. RELEASE OF INFORMATION. The state registrar of vital statistics may release information relating to the acknowledgment or denial of paternity, not expressly sealed under a court order, to: (1) A signatory of the acknowledgment or denial or their attorneys of record; (2) the courts of this or any other state; (3) the agencies of this or any other state operating a child support program under Title IV-D of the social security act; or (4) the agencies of this or any other state involved in a dependency determination for a child named in the acknowledgment or denial of paternity.

NEW SECTION. Sec. 314. ADOPTION OF RULES. The state registrar of vital statistics may adopt rules to implement sections 301 through 316 of this act.

NEW SECTION. Sec. 315. (1) Sections 301 through 316 of this act apply to all acknowledgments of paternity executed on or after July 1, 1997.

(2) A man who executed an acknowledgment of paternity before July 1, 1997, is rebuttably identified as the father of the child named therein. Any dispute of the parentage, custody, visitation, or support of the child named therein shall be determined in a proceeding to adjudicate the child's parentage commenced under sections 501 through 537 of this act.

NEW SECTION. Sec. 316. (1) After the period for rescission of an acknowledgment of paternity provided in section 307 of this act has passed, a parent executing an acknowledgment of paternity of the child named therein may commence a judicial proceeding for:

(a) Making residential provisions or a parenting plan with regard to the minor child on the same basis as provided in chapter 26.09 RCW; or

(b) Establishing a child support obligation under chapter 26.19 RCW and maintaining health insurance coverage under RCW 26.09.105.

(2) Pursuant to RCW 26.09.010(3), a proceeding authorized by this section shall be entitled "In re the parenting and support of..."

(3) Before the period for a challenge to the acknowledgment or denial of paternity has elapsed under section 308 of this act, the petitioner must specifically allege under penalty of perjury, to the best of the petitioner's knowledge, that: (a) No man other than the man who executed the acknowledgment of paternity is the father of the child; (b) there is not currently pending a proceeding to adjudicate the parentage of the child or that another man is adjudicated the child's father; and (c)

the petitioner has provided notice of the proceeding to any other men who have claimed parentage of the child. Should the respondent or any other person appearing in the action deny the allegations, a permanent parenting plan or residential schedule may not be entered for the child without the matter being converted to a proceeding to challenge the acknowledgment of paternity under sections 308 and 309 of this act. A copy of the acknowledgment of paternity must be filed with the petition or response. The court may convert the matter to a proceeding to challenge the acknowledgment on its own motion.

ARTICLE 4 GENETIC TESTING

NEW SECTION. Sec. 401. SCOPE. Sections 402 through 411 of this act govern genetic testing of an individual only to determine parentage, whether the individual:

- (1) Voluntarily submits to testing; or
- (2) Is tested pursuant to an order of the court or a support enforcement agency.

NEW SECTION. Sec. 402. ORDER FOR TESTING. (1) Except as otherwise provided in this section and sections 403 through 537 of this act, the court shall order the child and other designated individuals to submit to genetic testing if the request for testing is supported by the sworn statement of a party to the proceeding:

(a) Alleging paternity and stating facts establishing a reasonable probability of the requisite sexual contact between the individuals; or

(b) Denying paternity and stating facts establishing a possibility that sexual contact between the individuals, if any, did not result in the conception of the child.

(2) A support enforcement agency may order genetic testing only if there is no presumed, acknowledged, or adjudicated father.

(3) If a request for genetic testing of a child is made before birth, the court or support enforcement agency may not order in utero testing.

(4) If two or more men are subject to court-ordered genetic testing, the testing may be ordered concurrently or sequentially.

NEW SECTION. Sec. 403. REQUIREMENTS FOR GENETIC TESTING. (1) Genetic testing must be of a type reasonably relied upon by experts in the field of genetic testing and performed in a testing laboratory accredited by:

(a) The American association of blood banks, or a successor to its functions;

(b) The American society for histocompatibility and immunogenetics, or a successor to its functions; or

(c) An accrediting body designated by the United States secretary of health and human services.

(2) A specimen used in genetic testing may consist of one or more samples or a combination of samples of blood, buccal cells, bone, hair, or other body tissue or fluid. The specimen used in the testing need not be of the same kind for each individual undergoing genetic testing.

(3) Based on the ethnic or racial group of an individual, the testing laboratory shall determine the data bases from which to select frequencies for use in the calculations. If there is disagreement as to the testing laboratory's choice, the following rules apply:

(a) The individual objecting may require the testing laboratory, within thirty days after receipt of the report of the test, to recalculate the probability of paternity using an ethnic or racial group different from that used by the laboratory.

(b) The individual objecting to the testing laboratory's initial choice shall:

(i) If the frequencies are not available to the testing laboratory for the ethnic or racial group requested, provide the requested frequencies compiled in a manner recognized by accrediting bodies; or

(ii) Engage another testing laboratory to perform the calculations.

(c) The testing laboratory may use its own statistical estimate if there is a question regarding which ethnic or racial group is appropriate. If available, the testing laboratory shall calculate the frequencies using statistics for any other ethnic or racial group requested.

(4) If, after recalculation using a different ethnic or racial group, genetic testing does not rebuttably identify a man as the father of a child under section 405 of this act, an individual who has been tested may be required to submit to additional genetic testing.

NEW SECTION. Sec. 404. REPORT OF GENETIC TESTING. (1) The report of genetic testing must be in a record and signed under penalty of perjury by a designee of the testing laboratory. A report made under the requirements of this section is self-authenticating.

(2) Documentation from the testing laboratory of the following information is sufficient to establish a reliable chain of custody that allows the results of genetic testing to be admissible without testimony:

(a) The names and photographs of the individuals whose specimens have been taken;

(b) The names of the individuals who collected the specimens;

(c) The places and dates the specimens were collected;

(d) The names of the individuals who received the specimens in the testing laboratory; and

(e) The dates the specimens were received.

NEW SECTION. Sec. 405. GENETIC TESTING RESULTS—REBUTTAL. (1) Under this chapter, a man is rebuttably identified as the father of a child if the genetic testing complies with this section and sections 401 through 404 and 406 through 411 of this act and the results disclose that:

(a) The man has at least a ninety-nine percent probability of paternity, using a prior probability of 0.50, as calculated by using the combined paternity index obtained in the testing; and

(b) A combined paternity index of at least one hundred to one.

(2) A man identified under subsection (1) of this section as the father of the child may rebut the genetic testing results only by other genetic testing satisfying the requirements of this section and sections 401 through 404 and 406 through 411 of this act which:

- (a) Excludes the man as a genetic father of the child; or
- (b) Identifies another man as the father of the child.

(3) Except as otherwise provided in section 410 of this act, if more than one man is identified by genetic testing as the possible father of the child, the court shall order them to submit to further genetic testing to identify the genetic father.

NEW SECTION. Sec. 406. COSTS OF GENETIC TESTING. (1) Subject to assessment of costs under sections 501 through 537 of this act, the cost of initial genetic testing must be advanced:

- (a) By a support enforcement agency in a proceeding in which the support enforcement agency is providing services;
- (b) By the individual who made the request;
- (c) As agreed by the parties; or
- (d) As ordered by the court.

(2) In cases in which the cost is advanced by the support enforcement agency, the agency may seek reimbursement from a man who is rebuttably identified as the father.

NEW SECTION. Sec. 407. ADDITIONAL GENETIC TESTING. The court or the support enforcement agency shall order additional genetic testing upon the request of a party who contests the result of the original testing. If the previous genetic testing identified a man as the father of the child under section 405 of this act, the court or agency may not order additional testing unless the party provides advance payment for the testing.

NEW SECTION. Sec. 408. GENETIC TESTING WHEN SPECIMEN NOT AVAILABLE. (1) If a genetic testing specimen is not available from a man who may be the father of a child, for good cause and under circumstances the court considers to be just, a court may order the following individuals to submit specimens for genetic testing:

- (a) The parents of the man;
- (b) Brothers and sisters of the man;
- (c) Other children of the man and their mothers; and
- (d) Other relatives of the man necessary to complete genetic testing.

(2) If a specimen from the mother of a child is not available for genetic testing, the court may order genetic testing to proceed without a specimen from the mother.

(3) Issuance of an order under this section requires a finding that a need for genetic testing outweighs the legitimate interests of the individual sought to be tested.

NEW SECTION. Sec. 409. DECEASED INDIVIDUAL. For good cause shown, the court may order genetic testing of a deceased individual.

NEW SECTION. Sec. 410. IDENTICAL BROTHERS. (1) The court may order genetic testing of a brother of a man identified as the father of a child if the man is commonly believed to have an identical brother and evidence suggests that the brother may be the genetic father of the child.

(2) If genetic testing excludes none of the brothers as the genetic father, and each brother satisfies the requirements as the identified father of the child under section 405 of this act without consideration of another identical brother being identified as the father of the child, the court may rely on nongenetic evidence to adjudicate which brother is the father of the child.

NEW SECTION. Sec. 411. CONFIDENTIALITY OF GENETIC TESTING. (1) Release of the report of genetic testing for parentage is controlled by chapter 70.02 RCW.

(2) An individual commits a gross misdemeanor punishable under RCW 9.92.020 if the individual intentionally releases an identifiable specimen of another individual for any purpose other than that relevant to the proceeding regarding parentage without a court order or the written permission of the individual who furnished the specimen.

ARTICLE 5 PROCEEDING TO ADJUDICATE PARENTAGE

PART 1 NATURE OF PROCEEDING

NEW SECTION. Sec. 501. PROCEEDING AUTHORIZED. A civil proceeding may be maintained to adjudicate the parentage of a child. The proceeding is governed by the rules of civil procedure.

NEW SECTION. Sec. 502. STANDING TO MAINTAIN PROCEEDING. Subject to sections 301 through 316, 507, and 509 of this act, a proceeding to adjudicate parentage may be maintained by:

- (1) The child;
- (2) The mother of the child;
- (3) A man whose paternity of the child is to be adjudicated;
- (4) The division of child support;
- (5) An authorized adoption agency or licensed child-placing agency;
- (6) A representative authorized by law to act for an individual who would otherwise be entitled to maintain a proceeding but who is deceased, incapacitated, or a minor; or
- (7) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

NEW SECTION. Sec. 503. PARTIES TO PROCEEDING. The following individuals must be joined as parties in a proceeding to adjudicate parentage:

- (1) The mother of the child;
- (2) A man whose paternity of the child is to be adjudicated; and

(3) An intended parent under a surrogate parentage contract, as provided in RCW 26.26.210 through 26.26.260.

NEW SECTION. Sec. 504. PERSONAL JURISDICTION. (1) An individual may not be adjudicated to be a parent unless the court has personal jurisdiction over the individual.

(2) A court of this state having jurisdiction to adjudicate parentage may exercise personal jurisdiction over a nonresident individual, or the guardian or conservator of the individual, if the conditions prescribed in RCW 26.21.075 are fulfilled.

(3) Lack of jurisdiction over one individual does not preclude the court from making an adjudication of parentage binding on another individual over whom the court has personal jurisdiction.

NEW SECTION. Sec. 505. VENUE. Venue for a proceeding to adjudicate parentage is in the county of this state in which:

(1) The child resides or is found;

(2) The respondent resides or is found if the child does not reside in this state;

or

(3) A proceeding for probate of the presumed or alleged father's estate has been commenced.

NEW SECTION. Sec. 506. NO LIMITATION: CHILD HAVING NO PRESUMED, ACKNOWLEDGED, OR ADJUDICATED FATHER. A proceeding to adjudicate the parentage of a child having no presumed, acknowledged, or adjudicated father may be commenced at any time during the life of the child, even after:

(1) The child becomes an adult; or

(2) An earlier proceeding to adjudicate paternity has been dismissed based on the application of a statute of limitation then in effect.

NEW SECTION. Sec. 507. LIMITATION: CHILD HAVING PRESUMED FATHER. (1) Except as otherwise provided in subsection (2) of this section, a proceeding brought by a presumed father, the mother, or another individual to adjudicate the parentage of a child having a presumed father must be commenced not later than two years after the birth of the child.

(2) A proceeding seeking to disprove the father-child relationship between a child and the child's presumed father may be maintained at any time if the court determines that:

(a) The presumed father and the mother of the child neither cohabited nor engaged in sexual intercourse with each other during the probable time of conception; and

(b) The presumed father never openly treated the child as his own.

NEW SECTION. Sec. 508. AUTHORITY TO DENY GENETIC TESTING.

(1) In a proceeding to adjudicate parentage under circumstances described in

section 507 of this act, a court may deny genetic testing of the mother, the child, and the presumed father if the court determines that:

(a) The conduct of the mother or the presumed father estops that party from denying parentage; and

(b) It would be inequitable to disprove the father-child relationship between the child and the presumed father.

(2) In determining whether to deny genetic testing under this section, the court shall consider the best interest of the child, including the following factors:

(a) The length of time between the proceeding to adjudicate parentage and the time that the presumed father was placed on notice that he might not be the genetic father;

(b) The length of time during which the presumed father has assumed the role of father of the child;

(c) The facts surrounding the presumed father's discovery of his possible nonpaternity;

(d) The nature of the father-child relationship;

(e) The age of the child;

(f) The harm to the child which may result if presumed paternity is successfully disproved;

(g) The relationship of the child to any alleged father;

(h) The extent to which the passage of time reduces the chances of establishing the paternity of another man and a child support obligation in favor of the child; and

(i) Other factors that may affect the equities arising from the disruption of the father-child relationship between the child and the presumed father or the chance of other harm to the child.

(3) In a proceeding involving the application of this section, the child must be represented by a guardian ad litem.

(4) A denial of genetic testing must be based on clear and convincing evidence.

(5) If the court denies genetic testing, it shall issue an order adjudicating the presumed father to be the father of the child.

NEW SECTION. Sec. 509. LIMITATION: CHILD HAVING ACKNOWLEDGED OR ADJUDICATED FATHER. (1) If a child has an acknowledged father, a signatory to the acknowledgment or denial of paternity must commence any proceeding seeking to rescind or challenge the paternity of that child only within the time allowed under section 307 or 308 of this act.

(2) If a child has an acknowledged father or an adjudicated father, an individual, other than the child, who is neither a signatory to the acknowledgment nor a party to the adjudication and who seeks an adjudication of paternity of the child must commence a proceeding not later than two years after the effective date of the acknowledgment or adjudication.

NEW SECTION. Sec. 510. JOINDER OF PROCEEDINGS. (1) Except as provided in subsection (2) of this section, a proceeding to adjudicate parentage may be joined with a proceeding for: Adoption or termination of parental rights under chapter 26.33 RCW; determination of a parenting plan, child support, annulment, dissolution of marriage, or legal separation under chapter 26.09 or 26.19 RCW; or probate or administration of an estate under chapter 11.48 or 11.54 RCW, or other appropriate proceeding.

(2) A respondent may not join the proceedings described in subsection (1) of this section with a proceeding to adjudicate parentage brought under chapter 26.21 RCW.

NEW SECTION. Sec. 511. PROCEEDING BEFORE BIRTH. Although a proceeding to determine parentage may be commenced before the birth of the child, the proceeding may not be concluded until after the birth of the child. The following actions may be taken before the birth of the child:

- (1) Service of process;
- (2) Discovery;
- (3) Except as prohibited by section 402 of this act, collection of specimens for genetic testing; and
- (4) Temporary orders authorized under section 524 of this act.

NEW SECTION. Sec. 512. CHILD AS PARTY—REPRESENTATION. (1) A minor child is a permissible party, but is not a necessary party to a proceeding under sections 501 through 537 of this act.

(2) If the child is a party, or if the court finds that the interests of a minor child or incapacitated child are not adequately represented, the court shall appoint a guardian ad litem to represent the child, subject to RCW 74.20.310 neither the child's mother or father may represent the child as guardian or otherwise.

PART 2 SPECIAL RULES FOR PROCEEDING TO ADJUDICATE PARENTAGE

NEW SECTION. Sec. 521. ADMISSIBILITY OF RESULTS OF GENETIC TESTING—EXPENSES. (1) Except as otherwise provided in subsection (3) of this section, a record of a genetic testing expert is admissible as evidence of the truth of the facts asserted in the report unless a party objects to its admission within fourteen days after its receipt by the objecting party and cites specific grounds for exclusion. The admissibility of the report is not affected by whether the testing was performed:

- (a) Voluntarily or under an order of the court or a support enforcement agency; or
- (b) Before or after the commencement of the proceeding.

(2) A party objecting to the results of genetic testing may call one or more genetic testing experts to testify in person or by telephone, videoconference, deposition, or another method approved by the court. Unless otherwise ordered by

the court, the party offering the testimony bears the expense for the expert testifying.

(3) If a child has a presumed, acknowledged, or adjudicated father, the results of genetic testing are inadmissible to adjudicate parentage unless performed:

(a) With the consent of both the mother and the presumed, acknowledged, or adjudicated father; or

(b) Under an order of the court under section 402 of this act.

(4) Copies of bills for genetic testing and for prenatal and postnatal health care for the mother and child that are furnished to the adverse party not less than ten days before the date of a hearing are admissible to establish:

(a) The amount of the charges billed; and

(b) That the charges were reasonable, necessary, and customary.

NEW SECTION. Sec. 522. CONSEQUENCES OF DECLINING GENETIC TESTING. (1) An order for genetic testing is enforceable by contempt.

(2) If an individual whose paternity is being determined declines to submit to genetic testing as ordered by the court, the court may on that basis adjudicate parentage contrary to the position of that individual.

(3) Genetic testing of the mother of a child is not a condition precedent to testing the child and a man whose paternity is being determined. If the mother is unavailable or declines to submit to genetic testing, the court may order the testing of the child and every man whose paternity is being adjudicated.

NEW SECTION. Sec. 523. ADMISSION OF PATERNITY AUTHORIZED. (1) A respondent in a proceeding to adjudicate parentage may admit to the paternity of a child by filing a pleading to that effect or by admitting paternity under penalty of perjury when making an appearance or during a hearing.

(2) If the court finds that the admission of paternity was made under this section and finds that there is no reason to question the admission, the court shall issue an order adjudicating the child to be the child of the man admitting paternity.

NEW SECTION. Sec. 524. TEMPORARY ORDER. This section applies to any proceeding under sections 501 through 537 of this act.

(1) The court shall issue a temporary order for support of a child if the individual ordered to pay support:

(a) Is a presumed father of the child;

(b) Is petitioning to have his paternity adjudicated or has admitted paternity in pleadings filed with the court;

(c) Is identified as the father through genetic testing under section 405 of this act;

(d) Has declined to submit to genetic testing but is shown by clear and convincing evidence to be the father of the child; or

(e) Is the mother of the child.

(2) A temporary order may, on the same basis as provided in chapter 26.09 RCW, make residential provisions with regard to minor children of the parties, except that a parenting plan is not required unless requested by a parent.

(3) Any party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any party from:

(a) Molesting or disturbing the peace of another party;

(b) Going onto the grounds of or entering the home, workplace, or school of another party or the day care or school of any child;

(c) Knowingly coming within, or knowingly remaining within, a specified distance from a specified location; and

(d) Removing a child from the jurisdiction of the court.

(4) Either party may request a domestic violence protection order under chapter 26.50 RCW or an antiharassment protection order under chapter 10.14 RCW on a temporary basis. The court may grant any of the relief provided in RCW 26.50.060 except relief pertaining to residential provisions for the children which provisions shall be provided for under this chapter, and any of the relief provided in RCW 10.14.080. Ex parte orders issued under this subsection shall be effective for a fixed period not to exceed fourteen days, or upon court order, not to exceed twenty-four days if necessary to ensure that all temporary motions in the case can be heard at the same time.

(5) Restraining orders issued under this section restraining or enjoining the person from molesting or disturbing another party, or from going onto the grounds of or entering the home, workplace, or school of the other party or the day care or school of any child, or prohibiting the person from knowingly coming within, or knowingly remaining within, a specified distance of a location, shall prominently bear on the front page of the order the legend: **VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.50 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.**

(6) The court shall order that any temporary restraining order bearing a criminal offense legend, any domestic violence protection order, or any antiharassment protection order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall enter the order into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. The order is fully enforceable in any county in the state.

(7) If a restraining order issued pursuant to this section is modified or terminated, the clerk of the court shall notify the law enforcement agency specified in the order on or before the next judicial day. Upon receipt of notice that an order has been terminated, the law enforcement agency shall remove the order from any computer-based criminal intelligence system.

(8) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(9) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of RCW 9.41.800.

(10) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the petition is dismissed; and

(d) May be entered in a proceeding for the modification of an existing order.

(11) A support debt owed to the state for public assistance expenditures which has been charged against a party pursuant to RCW 74.20A.040 and/or 74.20A.055 shall not be merged in, or otherwise extinguished by, the final decree or order, unless the office of support enforcement has been given notice of the final proceeding and an opportunity to present its claim for the support debt to the court and has failed to file an affidavit as provided in this subsection. Notice of the proceeding shall be served upon the office of support enforcement personally, or by certified mail, and shall be given no fewer than thirty days prior to the date of the final proceeding. An original copy of the notice shall be filed with the court either before service or within a reasonable time thereafter. The office of support enforcement may present its claim, and thereby preserve the support debt, by filing an affidavit setting forth the amount of the debt with the court, and by mailing a copy of the affidavit to the parties or their attorney prior to the date of the final proceeding.

PART 3

HEARINGS AND ADJUDICATION

NEW SECTION. **Sec. 531.** RULES FOR ADJUDICATION OF PATERNITY. The court shall apply the following rules to adjudicate the paternity of a child:

(1) The paternity of a child having a presumed, acknowledged, or adjudicated father may be disproved only by admissible results of genetic testing excluding that man as the father of the child or identifying another man to be the father of the child.

(2) Unless the results of genetic testing are admitted to rebut other results of genetic testing, the man identified as the father of the child under section 405 of this act must be adjudicated the father of the child.

(3) If the court finds that genetic testing under section 405 of this act neither identifies nor excludes a man as the father of a child, the court may not dismiss the proceeding. In that event, the results of genetic testing, along with other evidence, are admissible to adjudicate the issue of paternity.

(4) Unless the results of genetic testing are admitted to rebut other results of genetic testing, a man excluded as the father of a child by genetic testing must be adjudicated not to be the father of the child.

NEW SECTION. Sec. 532. JURY PROHIBITED. The court, without a jury, shall adjudicate parentage of a child.

NEW SECTION. Sec. 533. HEARINGS—INSPECTION OF RECORDS.
(1) On request of a party and for good cause shown, the court may close a proceeding under this section and sections 501 through 532 and 534 through 537 of this act.

(2) A final order in a proceeding under this section and sections 501 through 532 and 534 through 537 of this act is available for public inspection. Other papers and records are available only with the consent of the parties or on order of the court for good cause.

NEW SECTION. Sec. 534. ORDER ON DEFAULT. The court shall issue an order adjudicating the paternity of a man who:

- (1) After service of process, is in default; and
- (2) Is found by the court to be the father of a child.

NEW SECTION. Sec. 535. DISMISSAL FOR WANT OF PROSECUTION.
The court may issue an order dismissing a proceeding commenced under this chapter for want of prosecution only without prejudice. An order of dismissal for want of prosecution with prejudice is void and may be challenged in another judicial or an administrative proceeding.

NEW SECTION. Sec. 536. ORDER ADJUDICATING PARENTAGE. (1)
The court shall issue an order adjudicating whether a man alleged or claiming to be the father is the parent of the child.

(2) An order adjudicating parentage must identify the child by name and age.

(3) Except as otherwise provided in subsection (4) of this section, the court may assess filing fees, reasonable attorneys' fees, fees for genetic testing, other costs, and necessary travel and other reasonable expenses incurred in a proceeding under this section and sections 501 through 535 and 537 of this act. The court may award attorneys' fees, which may be paid directly to the attorney, who may enforce the order in the attorney's own name.

(4) The court may not assess fees, costs, or expenses against the support enforcement agency of this state or another state, except as provided by other law.

(5) On request of a party and for good cause shown, the court may order that the name of the child be changed.

(6) If the order of the court is at variance with the child's birth certificate, the court shall order the state registrar of vital statistics to issue an amended birth certificate.

NEW SECTION. Sec. 537. BINDING EFFECT OF DETERMINATION OF PARENTAGE. (1) Except as otherwise provided in subsection (2) of this section, a determination of parentage is binding on:

(a) All signatories to an acknowledgment or denial of paternity as provided in sections 301 through 316 of this act; and

(b) All parties to an adjudication by a court acting under circumstances that satisfy the jurisdictional requirements of RCW 26.21.075.

(2) A child is not bound by a determination of parentage under this chapter unless:

(a) The acknowledgment of paternity is consistent with the results of the genetic testing;

(b) The adjudication of parentage was based on a finding consistent with the results of genetic testing and the consistency is declared in the determination or is otherwise shown; or

(c) The child was represented in the proceeding determining parentage by a guardian ad litem.

(3) In a proceeding to dissolve a marriage, the court is deemed to have made an adjudication of the parentage of a child if the court acts under circumstances that satisfy the jurisdictional requirements of RCW 26.21.075, and the final order:

(a) Expressly identifies a child as a "child of the marriage," "issue of the marriage," or similar words indicating that the husband is the father of the child; or

(b) Provides for support of the child by the husband unless paternity is specifically disclaimed in the order.

(4) Except as otherwise provided in subsection (2) of this section, a determination of parentage may be a defense in a subsequent proceeding seeking to adjudicate parentage by an individual who was not a party to the earlier proceeding.

(5) A party to an adjudication of paternity may challenge the adjudication only under law of this state relating to appeal, vacation of judgments, and other judicial review.

ARTICLE 6 CHILD OF ASSISTED REPRODUCTION

NEW SECTION. Sec. 601. SCOPE OF ARTICLE. Sections 602 through 609 of this act do not apply to the birth of a child conceived by means of sexual intercourse.

NEW SECTION. Sec. 602. PARENTAL STATUS OF DONOR. A donor is not a parent of a child conceived by means of assisted reproduction.

NEW SECTION. Sec. 603. HUSBAND'S PATERNITY OF CHILD OF ASSISTED REPRODUCTION. If a husband provides sperm for, or consents to, assisted reproduction by his wife as provided in section 604 of this act, he is the father of a resulting child born to his wife.

NEW SECTION. Sec. 604. CONSENT TO ASSISTED REPRODUCTION. (1) A consent to assisted reproduction by a married woman must be in a record signed by the woman and her husband. This requirement does not apply to the donation of eggs for assisted reproduction by another woman.

(2) Failure of the husband to sign a consent required by subsection (1) of this section, before or after birth of the child, does not preclude a finding that the husband is the father of a child born to his wife if the wife and husband openly treated the child as their own.

NEW SECTION. Sec. 605. LIMITATION ON HUSBAND'S DISPUTE OF PATERNITY. (1) Except as otherwise provided in subsection (2) of this section, the husband of a wife who gives birth to a child by means of assisted reproduction may not challenge his paternity of the child unless:

(a) Within two years after learning of the birth of the child he commences a proceeding to adjudicate his paternity; and

(b) The court finds that he did not consent to the assisted reproduction, before or after birth of the child.

(2) A proceeding to adjudicate paternity may be maintained at any time if the court determines that:

(a) The husband did not provide sperm for, or before or after the birth of the child consent to, assisted reproduction by his wife;

(b) The husband and the mother of the child have not cohabited since the probable time of assisted reproduction; and

(c) The husband never openly treated the child as his own.

(3) The limitation provided in this section applies to a marriage declared invalid after assisted reproduction.

NEW SECTION. Sec. 606. EFFECT OF DISSOLUTION OF MARRIAGE. (1) If a marriage is dissolved before placement of eggs, sperm, or an embryo, the former spouse is not a parent of the resulting child unless the former spouse consented in a record that if assisted reproduction were to occur after a divorce, the former spouse would be a parent of the child.

(2) The consent of the former spouse to assisted reproduction may be revoked by that individual in a record at any time before placement of eggs, sperm, or embryos.

NEW SECTION. Sec. 607. PARENTAL STATUS OF DECEASED SPOUSE. If a spouse dies before placement of eggs, sperm, or an embryo, the deceased spouse is not a parent of the resulting child unless the deceased spouse consented in a record that if assisted reproduction were to occur after death, the deceased spouse would be a parent of the child.

NEW SECTION. Sec. 608. EFFECT OF AGREEMENT BETWEEN OVUM DONOR AND WOMAN WHO GIVES BIRTH. The donor of ovum provided to a licensed physician for use in the alternative reproductive medical technology process of attempting to achieve a pregnancy in a woman other than the donor is treated in law as if she were not the natural mother of a child thereafter conceived and born unless the donor and the woman who gives birth to a child as a result of the alternative reproductive medical technology procedures agree in writing that the donor is to be a parent. Section 602 of this act does not apply in such case. A woman who gives birth to a child conceived through alternative reproductive medical technology procedures under the supervision and with the assistance of a licensed physician is treated in law as if she were the natural mother of the child unless an agreement in writing signed by an ovum donor and the woman giving birth to the child states otherwise. An agreement pursuant to this section must be in writing and signed by the ovum donor and the woman who gives birth to the child and any other intended parent of the child. The physician shall certify the parties' signatures and the date of the ovum harvest, identify the subsequent medical procedures undertaken, and identify the intended parents. The agreement, including the affidavit and certification referenced in RCW 26.26.030, must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file.

NEW SECTION. Sec. 609. ISSUANCE OF BIRTH CERTIFICATE. The department of health shall, upon request, issue a birth certificate for any child born as a result of an alternative reproductive medical technology procedure indicating the legal parentage of such child as intended by any agreement filed with the registrar of vital statistics pursuant to section 608 of this act.

ARTICLE 7 MISCELLANEOUS PROVISIONS

Sec. 701. RCW 5.44.140 and 1990 c 175 s 1 are each amended to read as follows:

In any proceeding regarding the determination of a family relationship, including but not limited to the parent and child relationship and the marriage relationship, a determination of family relationships regarding any person or persons who immigrated to the United States from a foreign country which was made or accepted by the United States immigration and naturalization service at the time of that person or persons' entry into the United States creates a rebuttable presumption that the determination is valid and that the family relationship under foreign law is as made or accepted at the time of entry. Except as provided in ~~((RCW 26.26.040 (1)(f) and (2)))~~ section 204(2) of this act, the presumption may be overcome by a preponderance of evidence showing that a living person other than the person named by the United States immigration and naturalization service is in the relationship in question.

Sec. 702. RCW 5.62.030 and 1986 c 212 s 2 are each amended to read as follows:

Notwithstanding anything to the contrary in this chapter, the privilege created in this chapter is subject to the same limitations and exemptions contained in RCW ~~((26.26.120;))~~ 26.44.060(3)(;) and 51.04.050 as those limitations and exemptions relate to the physician/patient privilege of RCW 5.60.060.

Sec. 703. RCW 9.41.070 and 1999 c 222 s 2 are each amended to read as follows:

(1) 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 or her person within this state for five 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. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

The applicant's constitutional right to bear arms shall not be denied, unless:

(a) He or she is ineligible to possess a firearm under the provisions of RCW 9.41.040 or 9.41.045;

(b) The applicant's concealed pistol license is in a revoked status;

(c) He or she is under twenty-one years of age;

(d) He or she is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, ~~((26.26.137;))~~ 26.50.060, ~~((or))~~ 26.50.070, or section 524 of this act;

(e) He or she is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense;

(f) He or she has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or

(g) He or she has been ordered to forfeit a firearm under RCW 9.41.098(1)(e) within one year before filing an application to carry a pistol concealed on his or her person.

No person convicted of a felony may have his or her right to possess firearms restored or his or her privilege to carry a concealed pistol restored, unless the person has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c), or RCW 9.41.040 (3) or (4) applies.

(2) The issuing authority shall check with the national crime information center, the Washington state patrol electronic data base, the department of social and health services electronic data base, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 or 9.41.045 to possess a firearm and therefore ineligible for a concealed pistol

license. This subsection applies whether the applicant is applying for a new concealed pistol license or to renew a concealed pistol license.

(3) Any person whose firearms rights have been restricted and who has been granted relief from disabilities by the secretary of the treasury under 18 U.S.C. Sec. 925(c) or who is exempt under 18 U.S.C. Sec. 921(a)(20)(A) shall have his or her right to acquire, receive, transfer, ship, transport, carry, and possess firearms in accordance with Washington state law restored except as otherwise prohibited by this chapter.

(4) The license application shall bear the full name, residential address, telephone number at the option of the applicant, date and place of birth, race, gender, description, not more than two complete sets of 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. A signed application for a concealed pistol license shall constitute a waiver of confidentiality and written request that the department of social and health services, mental health institutions, and other health care facilities release information relevant to the applicant's eligibility for a concealed pistol license to an inquiring court or law enforcement agency.

The application for an original license shall include two complete sets of fingerprints to be forwarded to the Washington state patrol.

The license and 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 license is not a defense to a federal prosecution.

The license 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 eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, and whether the applicant is a United States citizen. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. A person who is not a citizen of the United States shall meet the additional requirements of RCW 9.41.170 and produce proof of compliance with RCW 9.41.170 upon application. The license shall be in triplicate and in a form to be prescribed by the department of licensing.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing the license.

The department of licensing shall make available to law enforcement and corrections agencies, in an on-line format, all information received under this subsection.

(5) The nonrefundable fee, paid upon application, for the original five-year license shall be thirty-six dollars plus additional charges imposed by the Federal

Bureau of Investigation that are passed on to the applicant. No other state or local branch or unit of government may impose any additional charges on the applicant for the issuance of the license.

The fee shall be distributed as follows:

- (a) Fifteen 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;
 - (c) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
 - (d) Three dollars to the firearms range account in the general fund.
- (6) The nonrefundable fee for the renewal of such license shall be thirty-two dollars. No other branch or unit of government may impose any additional charges on the applicant for the renewal of the license.

The renewal fee shall be distributed as follows:

- (a) Fifteen dollars shall be paid to the state general fund;
 - (b) Fourteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
 - (c) Three dollars to the firearms range account in the general fund.
- (7) The nonrefundable fee for replacement of lost or damaged licenses is ten dollars to be paid to the issuing authority.

(8) 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.

(9) 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 (6) of this section. The fee shall be distributed as follows:

(a) Three dollars shall be deposited in the state wildlife fund and used exclusively first 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, and subsequently the support of volunteer instructors in the basic firearms safety training program conducted by the department of fish and wildlife. 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.

(10) Notwithstanding the requirements of subsections (1) through (9) 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. However, a temporary emergency license issued under this subsection shall not exempt the holder of the

license from any records check requirement. Temporary emergency licenses shall be easily distinguishable from regular licenses.

(11) 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.

(12) A person who knowingly makes a false statement regarding citizenship or identity on an application for a concealed pistol license is guilty of false swearing under RCW 9A.72.040. In addition to any other penalty provided for by law, the concealed pistol license of a person who knowingly makes a false statement shall be revoked, and the person shall be permanently ineligible for a concealed pistol license.

(13) A person may apply for a concealed pistol license:

(a) To the municipality or to the county in which the applicant resides if the applicant resides in a municipality;

(b) To the county in which the applicant resides if the applicant resides in an unincorporated area; or

(c) Anywhere in the state if the applicant is a nonresident.

Sec. 704. RCW 9.41.800 and 1996 c 295 s 14 are each amended to read as follows:

(1) Any court when entering an order authorized under RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, ~~((26.26.137,))~~ 26.50.060, ~~((or))~~ 26.50.070, or section 524 of this act shall, upon a showing by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a firearm under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender any concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(2) Any court when entering an order authorized under RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.130, ~~((26.26.137,))~~ 26.50.060, ~~((or))~~ 26.50.070, or section 524 of this act may, upon a showing by a preponderance of the evidence but not by clear and convincing evidence, that a party has: Used, displayed, or threatened to use a firearm or other dangerous weapon in a felony, or previously committed any offense that makes him or her ineligible to possess a pistol under the provisions of RCW 9.41.040:

(a) Require the party to surrender any firearm or other dangerous weapon;

(b) Require the party to surrender a concealed pistol license issued under RCW 9.41.070;

(c) Prohibit the party from obtaining or possessing a firearm or other dangerous weapon;

(d) Prohibit the party from obtaining or possessing a concealed pistol license.

(3) The court may order temporary surrender of a firearm or other dangerous weapon without notice to the other party if it finds, on the basis of the moving affidavit or other evidence, that irreparable injury could result if an order is not issued until the time for response has elapsed.

(4) In addition to the provisions of subsections (1), (2), and (3) of this section, the court may enter an order requiring a party to comply with the provisions in subsection (1) of this section if it finds that the possession of a firearm or other dangerous weapon by any party presents a serious and imminent threat to public health or safety, or to the health or safety of any individual.

(5) The requirements of subsections (1), (2), and (4) of this section may be for a period of time less than the duration of the order.

(6) The court may require the party to surrender any firearm or other dangerous weapon in his or her immediate possession or control or subject to his or her immediate possession or control to the sheriff of the county having jurisdiction of the proceeding, the chief of police of the municipality having jurisdiction, or to the restrained or enjoined party's counsel or to any person designated by the court.

Sec. 705. RCW 74.20.310 and 1991 c 367 s 45 are each amended to read as follows:

(1) The provisions of (~~RCW 26.26.090~~) section 512 of this act requiring appointment of a (~~general guardian or~~) guardian ad litem to represent the child in an action brought to determine the parent and child relationship do not apply to actions brought under chapter 26.26 RCW if:

(a) The action is brought by the attorney general on behalf of the department of social and health services and the child; or

(b) The action is brought by any prosecuting attorney on behalf of the state and the child when referral has been made to the prosecuting attorney by the department of social and health services requesting such action.

(2) On the issue of parentage, the attorney general or prosecuting attorney functions as the child's guardian ad litem provided the interests of the state and the child are not in conflict.

(3) The court, on its own motion or on motion of a party, may appoint a guardian ad litem when necessary.

(4) The summons shall contain a notice to the parents that pursuant to section 512 of this act the parents have a right to move the court for a guardian ad litem for the child other than the prosecuting attorney or the attorney general subject to subsection (2) of this section.

Sec. 706. RCW 74.20.360 and 1997 c 58 s 901 are each amended to read as follows:

(1) The division of child support may issue an order for genetic testing when providing services under this chapter and Title IV-D of the federal social security act if genetic testing:

(a) Is appropriate in an action under chapter 26.26 RCW, the uniform parentage act;

(b) Is appropriate in an action to establish support under RCW 74.20A.056; or

(c) Would assist the parties or the division of child support in determining whether it is appropriate to proceed with an action to establish or disestablish paternity.

(2) The order for genetic testing shall be served on the alleged parent or parents and the legal parent by personal service or by any form of mail requiring a return receipt.

(3) Within twenty days of the date of service of an order for genetic testing, any party required to appear for genetic testing, the child, or a guardian on the child's behalf, may petition in superior court under chapter 26.26 RCW to bar or postpone genetic testing.

(4) The order for genetic testing shall contain:

(a) An explanation of the right to proceed in superior court under subsection (3) of this section;

(b) Notice that if no one proceeds under subsection (3) of this section, the agency issuing the order will schedule genetic testing and will notify the parties of the time and place of testing by regular mail;

(c) Notice that the parties must keep the agency issuing the order for genetic testing informed of their residence address and that mailing a notice of time and place for genetic testing to the last known address of the parties by regular mail constitutes valid service of the notice of time and place;

(d) Notice that the order for genetic testing may be enforced through:

(i) Public assistance grant reduction for noncooperation, pursuant to agency rule, if the child and custodian are receiving public assistance;

(ii) Termination of support enforcement services under Title IV-D of the federal social security act if the child and custodian are not receiving public assistance;

(iii) A referral to superior court for an appropriate action under chapter 26.26 RCW; or

(iv) A referral to superior court for remedial sanctions under RCW 7.21.060.

(5) The department may advance the costs of genetic testing under this section.

(6) If an action is pending under chapter 26.26 RCW, a judgment for reimbursement of the cost of genetic testing may be awarded under ~~((RCW 26.26.100))~~ section 521 of this act.

(7) If no action is pending in superior court, the department may impose an obligation to reimburse costs of genetic testing according to rules adopted by the department to implement RCW 74.20A.056.

Sec. 707. RCW 74.20A.056 and 1997 c 58 s 941 are each amended to read as follows:

(1) If an alleged father has signed an affidavit acknowledging paternity which has been filed with the state registrar of vital statistics before July 1, 1997, the division of child support may serve a notice and finding of parental responsibility on him. ~~((Procedures for and responsibility resulting from acknowledgments filed after July 1, 1997, are in subsections (8) and (9) of this section.))~~ Service of the notice shall be in the same manner as a summons in a civil action or by certified mail, return receipt requested. The notice shall have attached to it a copy of the affidavit or certification of birth record information advising of the existence of a filed affidavit, provided by the state registrar of vital statistics, and shall state that:

(a) The alleged father may file an application for an adjudicative proceeding at which he will be required to appear and show cause why the amount stated in the finding of financial responsibility as to support is incorrect and should not be ordered;

(b) An alleged father may request that a blood or genetic test be administered to determine whether such test would exclude him from being a natural parent and, if not excluded, may subsequently request that the division of child support initiate an action in superior court to determine the existence of the parent-child relationship; and

(c) If the alleged father does not request that a blood or genetic test be administered or file an application for an adjudicative proceeding, the amount of support stated in the notice and finding of parental responsibility shall become final, subject only to a subsequent determination under ~~((RCW 26.26.060))~~ sections 501 through 537 of this act that the parent-child relationship does not exist.

(2) An alleged father who objects to the amount of support requested in the notice or who requests genetic tests may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt, the amount of the current and future support obligation, and the reimbursement of the costs of blood or genetic tests if advanced by the department.

(3) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department. If no application is filed within twenty days:

(a) The amounts in the notice shall become final and the debt created therein shall be subject to collection action; and

(b) Any amounts so collected shall neither be refunded nor returned if the alleged father is later found not to be a responsible parent.

(4) An alleged father who denies being a responsible parent may request that a blood or genetic test be administered at any time. The request for testing shall be in writing and served on the division of child support personally or by registered or certified mail. If a request for testing is made, the department shall arrange for the test and, pursuant to rules adopted by the department, may advance the cost of such testing. The department shall mail a copy of the test results by certified mail, return receipt requested, to the alleged father's last known address.

(5) If the test excludes the alleged father from being a natural parent, the division of child support shall file a copy of the results with the state registrar of vital statistics and shall dismiss any pending administrative collection proceedings based upon the affidavit in issue. The state registrar of vital statistics shall remove the alleged father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate, or any other name which the mother may select.

(6) The alleged father may, within twenty days after the date of receipt of the test results, request the division of child support to initiate an action under ~~((RCW 26.26.060))~~ sections 501 through 537 of this act to determine the existence of the parent-child relationship. If the division of child support initiates a superior court action at the request of the alleged father and the decision of the court is that the alleged father is a natural parent, the alleged father shall be liable for court costs incurred.

(7) If the alleged father does not request the division of child support to initiate a superior court action, or if the alleged father fails to appear and cooperate with blood or genetic testing, the notice of parental responsibility shall become final for all intents and purposes and may be overturned only by a subsequent superior court order entered under ~~((RCW 26.26.060))~~ sections 501 through 537 of this act.

(8)(a) Subsections (1) through (7) of this section do not apply to acknowledgments of paternity filed with the state registrar of vital statistics after July 1, 1997.

(b) If an ~~((alleged))~~ acknowledged father has signed an ~~((affidavit acknowledging))~~ acknowledgment of paternity that has been filed with the state registrar of vital statistics after July 1, 1997~~((-within sixty days from the date of filing of the acknowledgment))~~:

(i) The division of child support may serve a notice and finding of ~~((parental responsibility on him as set forth under this section))~~ financial responsibility under RCW 74.20A.055 based on the acknowledgment. The division of child support shall attach a copy of the acknowledgment or certification of the birth record information advising of the existence of a filed acknowledgment of paternity to the notice; ((and))

(ii) The notice shall include a statement that the ((alleged)) acknowledged father or any other signatory may ((rescind his acknowledgment of paternity. The rescission shall be notarized and delivered to the state registrar of vital statistics personally or by registered or certified mail. The state registrar shall remove the

father's name from the birth certificate and change the child's surname to be the same as the mother's maiden name as stated on the birth certificate or any other name that the mother may select. The state registrar shall file rescission notices in a sealed file. All future paternity actions on behalf of the child in question shall be performed under court order)) commence a proceeding in court to rescind or challenge the acknowledgment or denial of paternity under sections 307 and 308 of this act; and

(iii) The party commencing the action to rescind or challenge the acknowledgment or denial must serve notice on the division of child support and the office of the prosecuting attorney in the county in which the proceeding is commenced. Commencement of a proceeding to rescind or challenge the acknowledgment or denial stays the establishment of the notice and finding of financial responsibility, if the notice has not yet become a final order.

((b)) (c) If the ((alleged)) acknowledged father or other party to the notice does not file an application for an adjudicative proceeding or ((rescind his)) the signatories to the acknowledgment or denial do not commence a proceeding to rescind or challenge the acknowledgment of paternity, the amount of support stated in the notice and finding of ((parental)) financial responsibility becomes final, subject only to a subsequent determination under ((RCW 26.26.060)) sections 501 through 537 of this act that the parent-child relationship does not exist. The division of child support does not refund nor return any amounts collected under a notice that becomes final under this section or RCW 74.20A.055, even if a court later determines that the acknowledgment is void.

((c)) (d) An ((alleged)) acknowledged father or other party to the notice who objects to the amount of support requested in the notice may file an application for an adjudicative proceeding up to twenty days after the date the notice was served. An application for an adjudicative proceeding may be filed within one year of service of the notice and finding of parental responsibility without the necessity for a showing of good cause or upon a showing of good cause thereafter. An adjudicative proceeding under this section shall be pursuant to RCW 74.20A.055. The only issues shall be the amount of the accrued debt and the amount of the current and future support obligation.

(i) If the application for an adjudicative proceeding is filed within twenty days of service of the notice, collection action shall be stayed pending a final decision by the department.

(ii) If the application for an adjudicative proceeding is not filed within twenty days of the service of the notice, any amounts collected under the notice shall be neither refunded nor returned if the alleged father is later found not to be a responsible parent.

((d) If an alleged father makes a request for genetic testing, the department shall proceed as set forth under RCW 74.20.360.))

(e) If the ((alleged)) acknowledged father or other party to the notice does not request ((an)) a timely adjudicative proceeding, or if ((the alleged father fails to

~~rescind his filed acknowledgment of paternity))~~ no timely action is brought to rescind or challenge the acknowledgment or denial after service of the notice, the notice of ~~((parental))~~ financial responsibility becomes final for all intents and purposes and may be overturned only by a subsequent superior court order entered under ~~((RCW 26.26.060))~~ sections 501 through 537 of this act.

(9) ~~((Affidavits acknowledging))~~ Acknowledgments of paternity that are filed after July 1, 1997, are subject to requirements of chapters 26.26, the uniform parentage act, and 70.58 RCW.

(10) The department and the department of health may adopt rules to implement the requirements under this section.

Sec. 708. RCW 70.58.080 and 1997 c 58 s 937 are each amended to read as follows:

(1) Within ten days after the birth of any child, the attending physician, midwife, or his or her agent shall:

(a) Fill out a certificate of birth, giving all of the particulars required, including: (i) The mother's name and date of birth, and (ii) if the mother and father are married at the time of birth or ~~((the father has signed))~~ an acknowledgment of paternity has been signed or one has been filed with the state registrar of vital statistics naming the man as the father, the father's name and date of birth; and

(b) File the certificate of birth together with the mother's and father's social security numbers with the state registrar of vital statistics.

(2) The local registrar shall forward the birth certificate, any signed ~~((affidavit acknowledging))~~ acknowledgment of paternity that has not been filed with the state registrar of vital statistics, and the mother's and father's social security numbers to the state office of vital statistics pursuant to RCW 70.58.030.

(3) The state registrar of vital statistics shall make available to the division of child support the birth certificates, the mother's and father's social security numbers and acknowledgments of paternity ~~((affidavits))~~.

(4) Upon the birth of a child to an unmarried woman, the attending physician, midwife, or his or her agent shall:

(a) Provide an opportunity for the child's mother and natural father to complete an ~~((affidavit acknowledging))~~ acknowledgment of paternity. The completed ~~((affidavit))~~ acknowledgment shall be filed with the state registrar of vital statistics. The ~~((affidavit))~~ acknowledgment shall ~~((contain or have attached:~~

— (i) ~~A sworn statement by the mother consenting to the assertion of paternity and stating that this is the only possible father;~~

— (ii) ~~A statement by the father that he is the natural father of the child;~~

— (iii) ~~A sworn statement signed by the mother and the putative father that each has been given notice, both orally and in writing, of the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor, any rights afforded due to minority status, and responsibilities that arise from, signing the affidavit acknowledging paternity;~~

~~—(iv) Written information, furnished by the department of social and health services, explaining the implications of signing, including parental rights and responsibilities, and~~

~~—(v) The social security numbers of both parents)) be prepared as required by section 302 of this act.~~

(b) Provide written information and oral information, furnished by the department of social and health services, to the mother and the father regarding the benefits of having the child's paternity established and of the availability of paternity establishment services, including a request for support enforcement services. The oral and written information shall also include information regarding the alternatives to, the legal consequences of, and the rights, including, if one parent is a minor any rights afforded due to minority status, and responsibilities that arise from, signing the ~~((affidavit acknowledging))~~ acknowledgment of paternity.

(5) The physician or midwife or his or her agent is entitled to reimbursement for reasonable costs, which the department shall establish by rule, when an ~~((affidavit acknowledging))~~ acknowledgment of paternity is filed with the state registrar of vital statistics.

(6) If there is no attending physician or midwife, the father or mother of the child, householder or owner of the premises, manager or superintendent of the public or private institution in which the birth occurred, shall notify the local registrar, within ten days after the birth, of the fact of the birth, and the local registrar shall secure the necessary information and signature to make a proper certificate of birth.

(7) When an infant is found for whom no certificate of birth is known to be on file, a birth certificate shall be filed within the time and in the form prescribed by the state board of health.

(8) When no ~~((putative))~~ alleged father is named on a birth certificate of a child born to an unwed mother the mother may give any surname she so desires to her child but shall designate in space provided for father's name on the birth certificate "None Named".

NEW SECTION. Sec. 709. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

NEW SECTION. Sec. 710. 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. 711. The following acts or parts of acts are each repealed:

(1) RCW 26.26.010 ("Parent and child relationship" defined) and 1975-76 2nd ex.s. c 42 s 2;

(2) RCW 26.26.020 (Relationship not dependent on marriage) and 1975-'76 2nd ex.s. c 42 s 3;

(3) RCW 26.26.030 (How parent and child relationship established) and 2002 c ... (SSB 5433) s 1, 1985 c 7 s 86, & 1975-'76 2nd ex.s. c 42 s 4;

(4) RCW 26.26.035 (Default) and 1994 c 230 s 13;

(5) RCW 26.26.040 (Presumption of paternity) and 1997 c 58 s 938, 1994 c 230 s 14, 1990 c 175 s 2, 1989 c 55 s 4, & 1975-'76 2nd ex.s. c 42 s 5;

(6) RCW 26.26.050 (Artificial insemination) and 2002 c ... (SSB 5433) s 2 & 1975-'76 2nd ex.s. c 42 s 6;

(7) RCW 26.26.060 (Determination of father and child relationship—Who may bring action—When action may be brought) and 1983 1st ex.s. c 41 s 5 & 1975-'76 2nd ex.s. c 42 s 7;

(8) RCW 26.26.070 (Determination of father and child relationship—Petition to arrest alleged father—Warrant of arrest—Issuance—Grounds—Hearing) and 1975-'76 2nd ex.s. c 42 s 8;

(9) RCW 26.26.080 (Jurisdiction—Venue) and 1975-'76 2nd ex.s. c 42 s 9;

(10) RCW 26.26.090 (Parties) and 1984 c 260 s 31, 1983 1st ex.s. c 41 s 6, & 1975-'76 2nd ex.s. c 42 s 10;

(11) RCW 26.26.100 (Blood or genetic tests) and 1997 c 58 s 946;

(12) RCW 26.26.110 (Evidence relating to paternity) and 1994 c 146 s 2, 1984 c 260 s 33, & 1975-'76 2nd ex.s. c 42 s 12;

(13) RCW 26.26.120 (Civil action—Testimony—Evidence—Jury) and 1994 c 146 s 3, 1984 c 260 s 34, & 1975-'76 2nd ex.s. c 42 s 13;

(14) RCW 26.26.137 (Temporary support—Temporary restraining order—Preliminary injunction—Domestic violence or antiharassment protection order—Notice of modification or termination of restraining order—Support debts, notice) and 2000 c 119 s 11, 1995 c 246 s 32, 1994 sp.s. c 7 s 456, & 1983 1st ex.s. c 41 s 12;

(15) RCW 26.26.170 (Action to determine mother and child relationship) and 1975-'76 2nd ex.s. c 42 s 18;

(16) RCW 26.26.180 (Promise to render support) and 1983 1st ex.s. c 41 s 9 & 1975-'76 2nd ex.s. c 42 s 19;

(17) RCW 26.26.200 (Hearing or trials to be in closed court—Records confidential) and 1983 1st ex.s. c 41 s 10 & 1975-'76 2nd ex.s. c 42 s 21;

(18) RCW 26.26.900 (Uniformity of application and construction) and 1975-'76 2nd ex.s. c 42 s 42;

(19) RCW 26.26.901 (Short title) and 1975-'76 2nd ex.s. c 42 s 43; and

(20) RCW 26.26.905 (Severability—1975-'76 2nd ex.s. c 42) and 1975-'76 2nd ex.s. c 42 s 44.

NEW SECTION. Sec. 712. TRANSITIONAL PROVISION. A proceeding to adjudicate parentage which was commenced before the effective date of this section is governed by the law in effect at the time the proceeding was commenced.

NEW SECTION. **Sec. 713.** CAPTIONS, ARTICLE DESIGNATIONS, AND ARTICLE HEADINGS NOT LAW. Captions, article designations, and article headings used in this chapter are not any part of the law.

*NEW SECTION. **Sec. 714.** *EFFECTIVE DATE.* *This act takes effect July 1, 2002.*

*Sec. 714 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 715.** Sections 10I through 609, 709, 710, and 712 through 714 of this act are each added to chapter 26.26 RCW.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2002.

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

"I am returning herewith, without my approval as to section 714, Second Substitute House Bill No. 2346 entitled:

"AN ACT Relating to the uniform parentage act;"

Second Substitute House Bill No. 2346 adopts the 2000 Uniform Parentage Act, to replace the old 1973 act. The new act streamlines procedures and cleans up complications that have arisen with changes in science and society over the past several years.

Two bills addressing determination of parentage passed the legislature this year. The other bill, Substitute Senate Bill No. 5433, which I signed on March 12, 2002, amended the same statutes that this bill repeals and becomes effective on June 13, 2002. Section 714 of this bill makes the act effective on July 1, 2002, about two weeks after SSB 5433. By vetoing the delayed effective date in section 714, both bills become effective on the same day, and we will avoid having the amendments in SSB 5433 become law for only a very short time. Potential for legal anomalies and confusion will be avoided.

For these reasons, I have vetoed section 714 of Second Substitute House Bill No. 2346.

With the exception of section 714, Second Substitute House Bill No. 2346 is approved."

CHAPTER 303

[House Bill 2365]

STATE INVESTMENT BOARD—MEMBERSHIP

AN ACT Relating to increasing the size of the state investment board; amending RCW 43.33A.020 and 43.33A.040; and providing an effective date.

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

Sec. 1. RCW 43.33A.020 and 1985 c 195 s 1 are each amended to read as follows:

There is hereby created the state investment board to consist of ((fourteen)) fifteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of

nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

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

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

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

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

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

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

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

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

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

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

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

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

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

Sec. 2. RCW 43.33A.040 and 1981 c 219 s 2 are each amended to read as follows:

(1) A quorum to conduct the business of the state investment board consists of at least ~~((four voting members of the board before January 10, 1983, and five))~~ six voting members ~~((thereafter))~~. No action may be taken by the board without the affirmative vote of ~~((four members before January 10, 1983, and five))~~ six members ~~((thereafter))~~.

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

NEW SECTION. **Sec. 3.** This act takes effect September 1, 2002.

Passed the House February 14, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 304

[Substitute House Bill 2400]

RECREATIONAL DOCKS—MOORING BUOYS

AN ACT Relating to installing recreational docks and mooring buoys; and amending RCW 79.90.105.

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

Sec. 1. RCW 79.90.105 and 2001 c 277 s 1 are each amended to read as follows:

(1) The abutting residential owner to state-owned shorelands, tidelands, or related beds of navigable waters, other than harbor areas, may install and maintain without charge a dock on such areas if used exclusively for private recreational purposes and the area is not subject to prior rights, including any rights of upland, tideland, or shoreland owners as provided in RCW 79.94.070, 79.94.260, 79.94.280, and 79.95.010. The dock cannot be sold or leased separately from the upland residence. The dock cannot be used to moor boats for commercial or residential use. This permission is subject to applicable local, state, and federal rules and regulations governing location, design, construction, size, and length of the dock. ~~((This permission may be revoked by the department upon finding of public necessity which is limited to the protection of waterward access or ingress rights of other landowners or public health and safety. The revocation may be appealed as an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act.))~~ Nothing in this ~~((section))~~ subsection (1) prevents the abutting owner from obtaining a lease if otherwise provided by law.

(2) The abutting residential owner to state-owned shorelands, tidelands, or related beds of navigable waters, other than harbor areas, may ~~((anchor to))~~ install and maintain a mooring buoy((s)) without charge if the boat that is ~~((anchored))~~

moored to the buoy is used for private recreational purposes ~~((and))~~, the area is not subject to prior rights, including any rights of upland, tideland, or shoreland owners as provided in RCW 79.94.070, 79.94.260, 79.94.280, and 79.95.010, and the buoy will not obstruct the use of mooring buoys previously authorized by the department.

(a) The buoy must be located as near to the upland residence as practical, consistent with applicable rules and regulations and the provisions of this section. The buoy must be located, or relocated if necessary, to accommodate the use of lawfully installed and maintained buoys.

(b) If two or more residential owners, who otherwise qualify for free use under the provisions of this section, are in dispute over assertion of rights to install and maintain a mooring buoy in the same location, they may seek formal settlement through adjudication in superior court for the county in which the buoy site is located. In the adjudication, preference must be given to the residential owner that first installed and continually maintained and used a buoy on that site, if it meets all applicable rules, regulations, and provisions of this section, and then to the owner of the residential property nearest the site. Nothing in this section requires the department to mediate or otherwise resolve disputes between residential owners over the use of the same site for a mooring buoy.

(c) The buoy((s)) cannot be sold or leased separately from the ((upland residence)) abutting residential property. The ((mooring)) buoy cannot be used to moor boats for commercial~~((, transient,))~~ or residential use, nor to moor boats over sixty feet in length. ~~((One buoy may be installed without charge for the first one hundred feet of shoreline property owned, and one additional buoy may be installed without charge for every one hundred feet of shoreline property owned above the initial one hundred feet. The permission granted in this subsection is subject to the boat or mooring system not posing a hazard or obstruction to navigation or fishing or habitat degradation.))~~

(d) If the department determines that it is necessary for secure moorage, the abutting residential owner may install and maintain a second mooring buoy, under the same provisions as the first, the use of which is limited to a second mooring line to the boat moored at the first buoy.

(e) The permission granted in this subsection (2) is subject to applicable local, state, and federal rules and regulations governing location, design, installation, maintenance, and operation of the mooring buoy, anchoring system, and moored boat. Nothing in this subsection (2) prevents a boat owner from obtaining a lease if otherwise provided by law. This subsection (2) also applies to areas that have been designated by the commissioner of public lands or the fish and wildlife commission as aquatic reserves.

(3) This permission to install and maintain a recreational dock or mooring buoy may be revoked by the department, or the department may direct the owner of a recreational dock or mooring buoy to relocate their dock or buoy, if the department makes a finding of public necessity to protect waterward access ((or)),

ingress rights of other landowners ~~((or)), public health or safety, or public resources. Circumstances prompting a finding of public necessity may include, but are not limited to, the dock, buoy, anchoring system, or boat posing a hazard or obstruction to navigation or fishing, contributing to degradation of aquatic habitat, or contributing to decertification of shellfish beds otherwise suitable for commercial or recreational harvest.~~ The revocation may be appealed as ~~((an adjudicative proceeding under chapter 34.05 RCW, the administrative procedure act))~~ provided for under RCW 79.90.400.

(4) Nothing in this ~~((sub))~~section authorizes a boat owner to abandon a vessel at a recreational dock, mooring buoy, or elsewhere.

Passed the House February 12, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 305

[Substitute House Bill 2456]

LINKED DEPOSIT PROGRAM—MINORITY AND WOMEN’S BUSINESSES

AN ACT Relating to the linked deposit program; amending RCW 43.86A.060, 43.63A.690, 43.131.381, and 43.131.382; and adding a new section to chapter 39.19 RCW.

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

Sec. 1. RCW 43.86A.060 and 1993 c 512 s 30 are each amended to read as follows:

(1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those ~~((that))~~:

(a) ~~((Are loans that have))~~ Having terms that do not exceed ten years;

(b) That are made to a minority or women’s business enterprise that has received state certification under chapter 39.19 RCW;

(c) ~~((Are made to minority or women’s business enterprises that are considered a small business as defined in RCW 43.31.025;~~

~~—(d) Are made))~~ Where the interest rate on the loan to the minority or women’s business enterprise does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term; and

~~((e) Are made))~~ (d) Where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository.

(4) Upon notification by the state treasurer that a minority or women's business enterprise is no longer certified under chapter 39.19 RCW, the qualified public depository shall reduce the amount of qualifying loans by the outstanding balance of the loan made under this section to the minority or women's business enterprise.

NEW SECTION. **Sec. 2.** A new section is added to chapter 39.19 RCW to read as follows:

(1) The office shall, in consultation with the state treasurer and the department of community, trade, and economic development, compile information on minority and women's business enterprises that have received financial assistance through a qualified public depository under the provisions of RCW 43.86A.060. The information shall include, but is not limited to:

- (a) Name of the qualified public depository;
- (b) Geographic location of the minority or women's business enterprise;
- (c) Name of the minority or women's business enterprise;
- (d) Date of last certification by the office and certification number;
- (e) Type of business;
- (f) Amount and term of the loan to the minority or women's business enterprise; and
- (g) Other information the office deems necessary for the implementation of this section.

(2) The office shall notify the state treasurer of minority or women's business enterprises that are no longer certified under the provisions of this chapter. The written notification shall contain information regarding the reason for the decertification and information on financing provided to the minority or women's business enterprise under RCW 43.86A.060.

Sec. 3. RCW 43.63A.690 and 1993 c 512 s 31 are each amended to read as follows:

(1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department shall, in consultation with the state treasurer and office of minority and women's business enterprises, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060.

(3) The department, in consultation with the office of minority and women's business enterprises, shall develop indicators to measure the performance of the linked deposit program in the areas of job creation or retention and providing access to capital to minority or women's business enterprises.

Sec. 4. RCW 43.131.381 and 2001 c 316 s 1 are each amended to read as follows:

The linked deposit program shall be terminated on June 30, (~~2003~~) 2008, as provided in RCW 43.131.382.

Sec. 5. RCW 43.131.382 and 2001 c 316 s 2 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, (~~2004~~) 2009:

- (1) RCW 43.86A.060 and 1993 c 512 s 30;
- (2) RCW 43.63A.690 and 1993 c 512 s 31; (~~and~~)
- (3) RCW 43.86A.070 and 1993 c 512 s 34; and
- (4) Section 2 of this act.

Passed the House March 12, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 306

[Engrossed House Bill 2498]

INDUSTRIAL LAND BANKS

AN ACT Relating to establishing a pilot program authorizing designation of industrial land banks outside urban growth areas under certain circumstances; and amending RCW 36.70A.367.

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

Sec. 1. RCW 36.70A.367 and 2001 c 326 s 1 are each amended to read as follows:

(1) In addition to the major industrial development allowed under RCW 36.70A.365, a county (~~required or choosing to plan~~) planning under RCW 36.70A.040 that meets the criteria in subsection (9) or (10) of this section may establish, in consultation with cities consistent with provisions of RCW 36.70A.210, a process for designating a bank of no more than two master planned locations for major industrial activity outside urban growth areas.

(2) A master planned location for major industrial developments outside an urban growth area may be included in the urban industrial land bank for the county if criteria including, but not limited to, the following are met:

- (a) New infrastructure is provided for and/or applicable impact fees are paid;
- (b) Transit-oriented site planning and traffic demand management programs are implemented;
- (c) Buffers are provided between the major industrial development and adjacent nonurban areas;
- (d) Environmental protection including air and water quality has been addressed and provided for;

(e) Development regulations are established to ensure that urban growth will not occur in adjacent nonurban areas;

(f) Provision is made to mitigate adverse impacts on designated agricultural lands, forest lands, and mineral resource lands;

(g) The plan for the major industrial development is consistent with the county's development regulations established for protection of critical areas; ~~((and))~~

(h) An inventory of developable land has been conducted as provided in RCW 36.70A.365;

(i) An interlocal agreement related to infrastructure cost sharing and revenue sharing between the county and interested cities are established;

(j) Provisions are established for determining the availability of alternate sites within urban growth areas and the long-term annexation feasibility of land sites outside of urban growth areas; and

(k) Development regulations require the industrial land bank site to be used primarily for locating industrial and manufacturing businesses and specify that the gross floor area of all commercial and service buildings or facilities locating within the industrial land bank shall not exceed ten percent of the total gross floor area of buildings or facilities in the industrial land bank. The commercial and service businesses operated within the ten percent gross floor area limit shall be necessary to the primary industrial or manufacturing businesses within the industrial land bank. The intent of this revision for commercial or service use is to meet the needs of employees, clients, customers, vendors, and others having business at the industrial site and as an adjunct to the industry to attract and retain a quality work force and to further other public objectives, such as trip reduction. Such uses would not be promoted to attract additional clientele from the surrounding area. The commercial and service businesses should be established concurrently with or subsequent to the industrial or manufacturing businesses.

(3) In selecting master planned locations for inclusion in the urban industrial land bank, priority shall be given to locations that are adjacent to, or in close proximity to, an urban growth area.

(4) Final approval of inclusion of a master planned location in the urban industrial land bank shall be considered an adopted amendment to the comprehensive plan adopted pursuant to RCW 36.70A.070, except that RCW 36.70A.130(2) does not apply so that inclusion or exclusion of master planned locations may be considered at any time.

(5) Once a master planned location has been included in the urban industrial land bank, manufacturing and industrial businesses that qualify as major industrial development under RCW 36.70A.365 may be located there.

(6) Nothing in this section may be construed to alter the requirements for a county to comply with chapter 43.21C RCW.

(7)(a) The authority of a county meeting the criteria of subsection (9) of this section to engage in the process of including or excluding master planned locations

from the urban industrial land bank shall terminate on December 31, ~~((1999))~~ 2007. However, any location included in the urban industrial land bank on or before December 31, ~~((1999))~~ 2007, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met. A county that has established or proposes to establish an industrial land bank pursuant to this section shall review the need for an industrial land bank within the county, including a review of the availability of land for industrial and manufacturing uses within the urban growth area, during the review and evaluation of comprehensive plans and development regulations required by RCW 36.70A.130.

(b) The authority of a county meeting the criteria of subsection (10) of this section to engage in the process of including or excluding master planned locations from the urban industrial land bank terminates on December 31, 2002. However, any location included in the urban industrial land bank on December 31, 2002, shall be available for major industrial development as long as the criteria of subsection (2) of this section are met.

(8) For the purposes of this section, "major industrial development" means a master planned location suitable for manufacturing or industrial businesses that: (a) Requires a parcel of land so large that no suitable parcels are available within an urban growth area; or (b) is a natural resource-based industry requiring a location near agricultural land, forest land, or mineral resource land upon which it is dependent; or (c) requires a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an urban growth area. The major industrial development may not be for the purpose of retail commercial development or multitenant office parks.

(9) This section and the termination date specified in subsection (7)(a) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than two hundred fifty thousand and is part of a metropolitan area that includes a city in another state with a population greater than two hundred fifty thousand;

(b) Has a population greater than one hundred forty thousand and is adjacent to another country; ~~((or))~~

(c) Has a population greater than forty thousand but less than seventy-five thousand and has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(i) Is bordered by the Pacific Ocean; ~~((or))~~

(ii) Is located in the Interstate 5 or Interstate 90 corridor; or

(iii) Is bordered by Hood Canal;

(d) Is east of the Cascade divide; and

(i) Borders another state to the south; or

(ii) Is located wholly south of Interstate 90 and borders the Columbia river to the east; or

(e) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent, and is bordered by the Pacific Ocean and by Hood Canal.

(10) This section and the termination date specified in subsection (7)(b) of this section apply to a county that at the time the process is established under subsection (1) of this section:

(a) Has a population greater than forty thousand but fewer than eighty thousand;

(b) Has an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by twenty percent; and

(c) Is located in the Interstate 5 or Interstate 90 corridor.

(11) Any location included in an industrial land bank pursuant to section 2, chapter 289, Laws of 1998, section 1, chapter 402, Laws of 1997, and section 2, chapter 167, Laws of 1996 shall remain available for major industrial development according to this section as long as the criteria of subsection (2) of this section continue to be satisfied.

Passed the House March 9, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 307

[Engrossed Senate Bill 5954]

RACIAL TERMINOLOGY—OBSOLETE REFERENCES

AN ACT Relating to obsolete racial terminology; amending RCW 35.22.650; adding a new section to chapter 1.20 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 legislature finds that the use of the term "Oriental" when used to refer to persons of Asian descent is outdated and pejorative. There is a need to make clear that the term "Asian" is preferred terminology, and that this more modern and nonpejorative term must be used to replace outdated terminology.

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

(1) All state and local government statutes, codes, rules, regulations, and other official documents enacted after July 1, 2002, are required to use the term "Asian" when referring to persons of Asian descent. The use of the term "Oriental" is prohibited.

(2) The legislature urges all state and local entities to review their statutes, codes, rules, regulations, and other official documents and revise them to omit the use of the term "Oriental" when referring to persons of Asian descent.

Sec. 3. RCW 35.22.650 and 1975 1st ex.s. c 56 s 4 are each amended to read as follows:

All contracts by and between a first class city and contractors for any public work or improvement exceeding the sum of ten thousand dollars, or fifteen thousand dollars for construction of water mains, shall contain the following clause:

"Contractor agrees that ~~((he))~~ the contractor shall actively solicit the employment of minority group members. Contractor further agrees that ~~((he))~~ the contractor shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of ~~((his))~~ the contractor's compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bid."

As used in this section, the term "minority business" means a business at least fifty-one percent of which is owned by minority group members. Minority group members include, but are not limited to, blacks, women, native Americans, ~~((Orientals))~~ Asians, Eskimos, Aleuts, and ~~((Spanish Americans))~~ Hispanics.

NEW SECTION. Sec. 4. This act takes effect July 1, 2002.

Passed the Senate March 11, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 308

[Engrossed Substitute House Bill 2506]

JOINT TASK FORCE ON GREEN BUILDING

AN ACT Relating to the joint task force on green building; 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 citizens in many communities desire homes that, in addition to being well-built and affordable, are also environmentally "friendly." In addition to the public demand for low-impact development and its environmental benefits, the legislature also finds that low-impact developments have significant potential to reduce the costs of storm water management, energy generation, road construction, and other local infrastructure costs for our communities. The legislature further finds that a number of new

programs have been developed over the past few years, both within the state and across the country, to promote and provide for low-impact development.

The legislature therefore finds that there is a need to evaluate local and national low-impact development programs to identify how the state government can play a positive role in facilitating local efforts to meet public demand for more livable communities and to reduce the environmental and social costs of our current development practices.

NEW SECTION. Sec. 2. (1) The joint task force on green building is created, to consist of the following ten members:

(a) Two members of the house of representatives, one from the majority caucus and one from the minority caucus, to be appointed by the speaker of the house;

(b) Two members of the senate, one member from the majority caucus and one from the minority caucus, to be appointed by the senate majority leader;

(c) One member from the office of community development of the department of community, trade, and economic development, appointed by the director of the department of community, trade, and economic development; and

(d) One member representing each of the following interests, selected by the associations representing those interests: The residential building industry, the commercial building industry, cities, counties, and environmental organizations.

(2) Legislative members of the task force shall be reimbursed for travel expenses as provided in RCW 44.04.120. The staff of senate committee services and the office of program research of the house of representatives shall provide support to the task force.

(3) The chair may appoint experts and advisors as nonvoting members of the task force to provide information on various subjects. The task force shall establish rules of procedure at its first meeting.

NEW SECTION. Sec. 3. The joint task force on green building shall:

(1) Complete a thorough study of cities and counties that offer a form of green building and low-impact development codes to:

(a) Determine components of the different programs that are effective and what is ineffective;

(b) Determine incentives and disincentives to implementing a green building program;

(c) Study existing green building standards or programs, such as Leadership in Environmental and Energy Design (LEED), Build a Better Kitsap, Build a Better Clark County, the National Institute of Standards and Technology Building for Environmental and Economic Sustainability (BEES), the United States Environmental Protection Agency's Environmentally Preferable Purchasing Program (EPP), and the National Institute of Building Sciences Whole Building Design Guide (WBDG); and

(d) Identify the potential for low-impact development to reduce costs of storm water management, road building, and other infrastructure needs; and

(2) Commence the study within thirty days of adjournment sine die of the 2002 regular session, and present a final report of its findings and any recommendations to the legislature by January 1, 2003.

NEW SECTION. Sec. 4. This act expires March 30, 2003.

Passed the House February 14, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 309

[Engrossed Substitute House Bill 2574]

CHILDREN'S SYSTEM OF CARE

AN ACT Relating to a children's system of care; adding a new section to chapter 28A.300 RCW; adding a new chapter to Title 74 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The secretary shall establish demonstration sites for statewide implementation of a children's system of care. The demonstration sites shall be selected using the following criteria:

(a) The system administrator must be the recipient of funding by the federal center for mental health services for the purpose of developing a system of care for children with emotional and behavioral disorders;

(b) The system administrator must have established a process for ongoing input and coordination from the public health and safety network or networks established in the catchment area of the project; and

(c) The system administrator may be a project site under a Title IV-E waiver.

(2) For the purposes of this section, "children's system of care" means a centralized community care coordination system representing a philosophy about the way services should be delivered to children and their families, using existing resources of various child-serving agencies addressing the problems of children with emotional and behavioral disorders. The agencies represented may include providers of mental health services, drug and alcohol services, services for the developmentally disabled, county juvenile justice and state juvenile rehabilitation, child welfare, and special education.

NEW SECTION. Sec. 2. The goals of the children's system of care are to:

(1) Maintain a multiagency collaborative planning and system management mechanism at the state and local levels through the establishment of an oversight committee at the local level in accordance with the principles and program requirements associated with the federal center for children's mental health services;

(2) Recommend and make necessary financing changes to support individualized and flexible home and community-based services and supports that are child centered, family driven, strength based, and culturally competent;

- (3) Support a common screening tool and integrated care coordination system;
- (4) Recommend and make necessary changes in contracting to support integrated service delivery;
- (5) Promote and increase the expansion of system capacity for children and their families in each demonstration site community;
- (6) Develop the capacity of family members to provide support for one another and to strengthen the family voice in system implementation through the utilization of a citizens' advisory board as described in section 4 of this act and through other outreach activities;
- (7) Conduct research and draw on outside consultation to identify best practices to inform system development and refinement; and
- (8) Demonstrate cost-effectiveness by creating system efficiencies that generate savings from the current level of expenditures for children being served by the participating agencies. These savings must be used to provide more services to the children involved in the project, or to serve more children.

NEW SECTION. Sec. 3. The secretary shall assure collaboration with each demonstration site by child-serving entities operated directly by the department or by departmental contractors. A collaboration contract or memorandum of understanding shall be developed by the demonstration site and the secretary for that purpose.

NEW SECTION. Sec. 4. (1) A citizens' advisory board and the agencies participating in each demonstration site for a children's system of care established under section 1 of this act shall establish evaluation criteria consistent with the goals set forth in section 2 of this act. The evaluation criteria shall be developed no later than sixty days after the effective date of this act.

(2) The evaluation shall be conducted by an entity with experience in evaluating organizations that are:

(a) Recipients of funding by the federal center for mental health services for the purpose of developing a system of care for children with emotional and behavioral disorders; and

(b) A project site under a Title IV-E waiver.

Each demonstration site in existence as of July 1, 2002, shall submit a report to the children and family services committee of the house of representatives and to the human services and corrections committee of the senate, or their successors. An interim report shall be submitted to the committees by December 1, 2002. A final report shall be submitted to the committees by December 1, 2003.

(3) This section expires January 1, 2004.

NEW SECTION. Sec. 5. Funding for children's system of care projects following the expiration of the federal grant shall be determined using the process established in RCW 74.14A.060 and funded children's system of care projects shall be included in the annual report required by that section.

NEW SECTION. **Sec. 6.** A new section is added to chapter 28A.300 RCW to read as follows:

It is the expectation of the legislature that local school districts shall collaborate with each children's system of care demonstration site established under section I of this act.

NEW SECTION. **Sec. 7.** Sections I through 5 of this act constitute a new chapter in Title 74 RCW.

Passed the House March 9, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 310

[Substitute House Bill 2589]

AUDIOLOGISTS—SPEECH LANGUAGE PATHOLOGISTS

AN ACT Relating to licensure of audiologists and speech-language pathologists; amending RCW 18.35.010, 18.35.020, 18.35.030, 18.35.040, 18.35.050, 18.35.060, 18.35.080, 18.35.090, 18.35.095, 18.35.100, 18.35.105, 18.35.110, 18.35.120, 18.35.140, 18.35.150, 18.35.161, 18.35.172, 18.35.175, 18.35.185, 18.35.190, 18.35.195, 18.35.205, 18.35.230, 18.35.240, 18.35.250, and 18.35.260; and providing an effective date.

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

Sec. 1. RCW 18.35.010 and 1998 c 142 s 1 are each amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Assistive listening device or system" means an amplification system that is specifically designed to improve the signal to noise ratio for the listener, reduce interference from noise in the background, and enhance hearing levels at a distance by picking up sound from as close to source as possible and sending it directly to the ear of the listener, excluding hearing instruments as defined in this chapter.

(2) "~~((Certified))~~ Licensed audiologist" means a person who is ~~((certified))~~ licensed by the department to engage in the practice of audiology and meets the qualifications in this chapter.

(3) "Audiology" means the application of principles, methods, and procedures related to hearing and the disorders of hearing and to related language and speech disorders, whether of organic or nonorganic origin, peripheral or central, that impede the normal process of human communication including, but not limited to, disorders of auditory sensitivity, acuity, function, processing, or vestibular function, the application of aural habilitation, rehabilitation, and appropriate devices including fitting and dispensing of hearing instruments, and cerumen management to treat such disorders.

(4) "Board" means the board of hearing and speech.

(5) "Department" means the department of health.

(6) "Direct supervision" means that the supervisor is physically present and in the same room with the interim permit holder, observing the nondiagnostic testing, fitting, and dispensing activities at all times.

(7) "Establishment" means any permanent site housing a person engaging in the practice of fitting and dispensing of hearing instruments by a hearing instrument fitter/dispenser or audiologist; where the client can have personal contact and counsel during the firm's business hours; where business is conducted; and the address of which is given to the state for the purpose of bonding.

(8) "Facility" means any permanent site housing a person engaging in the practice of speech-language pathology and/or audiology, excluding the sale, lease, or rental of hearing instruments.

(9) "Fitting and dispensing of hearing instruments" means the sale, lease, or rental or attempted sale, lease, or rental of hearing instruments together with the selection and modification of hearing instruments and the administration of nondiagnostic tests as specified by RCW 18.35.110 and the use of procedures essential to the performance of these functions; and includes recommending specific hearing instrument systems, specific hearing instruments, or specific hearing instrument characteristics, the taking of impressions for ear molds for these purposes, the use of nondiagnostic procedures and equipment to verify the appropriateness of the hearing instrument fitting, and hearing instrument orientation. The fitting and dispensing of hearing instruments as defined by this chapter may be equally provided by a licensed hearing instrument fitter/dispenser or (~~certified~~) licensed audiologist.

(10) "Good standing" means a licensed hearing instrument fitter/dispenser (~~or certified~~), licensed audiologist, or licensed speech-language pathologist whose license (~~or certificate~~) has not been subject to sanctions pursuant to chapter 18.130 RCW or sanctions by other states, territories, or the District of Columbia in the last two years.

(11) "Hearing instrument" means any wearable prosthetic instrument or device designed for or represented as aiding, improving, compensating for, or correcting defective human hearing and any parts, attachments, or accessories of such an instrument or device, excluding batteries and cords, ear molds, and assistive listening devices.

(12) "Hearing instrument fitter/dispenser" means a person who is licensed to engage in the practice of fitting and dispensing of hearing instruments and meets the qualifications of this chapter.

(13) "Interim permit holder" means a person who holds the permit created under RCW 18.35.060 and who practices under the direct supervision of a licensed hearing instrument fitter/dispenser (~~or certified~~), licensed speech-language pathologist, or (~~certified~~) licensed audiologist.

(14) "Secretary" means the secretary of health.

(15) "~~((Certified))~~ Licensed speech-language pathologist" means a person who is ~~((certified))~~ licensed by the department to engage in the practice of speech-language pathology and meets the qualifications of this chapter.

(16) "Speech-language pathology" means the application of principles, methods, and procedures related to the development and disorders, whether of organic or nonorganic origin, that impede oral, pharyngeal, or laryngeal sensorimotor competencies and the normal process of human communication including, but not limited to, disorders and related disorders of speech, articulation, fluency, voice, verbal and written language, auditory comprehension, cognition/communication, and the application of augmentative communication treatment and devices for treatment of such disorders.

Sec. 2. RCW 18.35.020 and 1998 c 142 s 2 are each amended to read as follows:

(1) No person shall engage in the fitting and dispensing of hearing instruments or imply or represent that he or she is engaged in the fitting and dispensing of hearing instruments unless he or she is a licensed hearing instrument fitter/dispenser or a ~~((certified))~~ licensed audiologist or holds an interim permit issued by the department as provided in this chapter and is an owner or employee of an establishment that is bonded as provided by RCW 18.35.240. The owner or manager of an establishment that dispenses hearing instruments is responsible under this chapter for all transactions made in the establishment name or conducted on its premises by agents or persons employed by the establishment engaged in fitting and dispensing of hearing instruments. Every establishment that fits and dispenses shall have in its employ at least one licensed hearing instrument fitter/dispenser or ~~((certified))~~ licensed audiologist at all times, and shall annually submit proof that all testing equipment at that establishment that is required by the board to be calibrated has been properly calibrated.

(2) Effective January 1, 2003, no person shall engage in the practice of audiology or imply or represent that he or she is engaged in the practice of audiology unless he or she is a licensed audiologist or holds an audiology interim permit issued by the department as provided in this chapter. Audiologists who are certified as educational staff associates by the state board of education are excluded unless they elect to become licensed under this chapter.

(3) Effective January 1, 2003, no person shall engage in the practice of speech-language pathology or imply or represent that he or she is engaged in the practice of speech-language pathology unless he or she is a licensed speech-language pathologist or holds a speech-language pathology interim permit issued by the department as provided in this chapter. Speech-language pathologists who are certified as educational staff associates by the state board of education are excluded unless they elect to become licensed under this chapter.

Sec. 3. RCW 18.35.030 and 1996 c 200 s 4 are each amended to read as follows:

Any person who engages in fitting and dispensing of hearing instruments shall provide to each person who enters into an agreement to purchase a hearing instrument a receipt at the time of the agreement containing the following information:

- (1) The seller's name, signature, license, (~~certificate~~) or permit number, address, and phone number of his or her regular place of business;
- (2) A description of the instrument furnished, including make, model, circuit options, and the term "used" or "reconditioned" if applicable;
- (3) A disclosure of the cost of all services including but not limited to the cost of testing and fitting, the actual cost of the hearing instrument furnished, the cost of ear molds if any, and the terms of the sale. These costs, including the cost of ear molds, shall be known as the total purchase price. The receipt shall also contain a statement of the purchaser's rescission rights under this chapter and an acknowledgment that the purchaser has read and understands these rights. Upon request, the purchaser shall also be supplied with a signed and dated copy of any hearing evaluation performed by the seller.
- (4) At the time of delivery of the hearing instrument, the purchaser shall also be furnished with the serial number of the hearing instrument supplied.

Sec. 4. RCW 18.35.040 and 1998 c 142 s 3 are each amended to read as follows:

(1) An applicant for licensure as a hearing instrument fitter/dispenser must have the following minimum qualifications and shall pay a fee determined by the secretary as provided in RCW 43.70.250. An applicant shall be issued a license under the provisions of this chapter if the applicant:

- (a)(i) Satisfactorily completes the hearing instrument fitter/dispenser examination required by this chapter; or
- (ii) Holds a current, unsuspended, unrevoked license from another jurisdiction if the standards for licensing in such other jurisdiction are substantially equivalent to those prevailing in this state;
- (b) Satisfactorily completes a minimum of a two-year degree program in hearing instrument fitter/dispenser instruction. The program must be approved by the board; and
- (c) Has not committed unprofessional conduct as specified by the uniform disciplinary act.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

(2) An applicant for (~~certification~~) licensure as a speech-language pathologist or audiologist must have the following minimum qualifications:

- (a) Has not committed unprofessional conduct as specified by the uniform disciplinary act;

(b) Has a master's degree or the equivalent, or a doctorate degree or the equivalent, from a program at a board-approved institution of higher learning, which includes completion of a supervised clinical practicum experience as defined by rules adopted by the board; and

(c) Has completed postgraduate professional work experience approved by the board.

All qualified applicants must satisfactorily complete the speech-language pathology or audiology examinations required by this chapter.

The applicant must present proof of qualifications to the board in the manner and on forms prescribed by the secretary and proof of completion of a minimum of four clock hours of AIDS education and training pursuant to rules adopted by the board.

Sec. 5. RCW 18.35.050 and 1996 c 200 s 6 are each amended to read as follows:

Except as otherwise provided in this chapter an applicant for license (~~or certification~~) shall appear at a time and place and before such persons as the department may designate to be examined by written or practical tests, or both. Examinations in hearing instrument fitting/dispensing, speech-language pathology, and audiology shall be held within the state at least once a year. The examinations shall be reviewed annually by the board and the department, and revised as necessary. The examinations shall include appropriate subject matter to ensure the competence of the applicant. Nationally recognized examinations in the fields of fitting and dispensing of hearing instruments, speech-language pathology, and audiology may be used to determine if applicants are qualified for licensure (~~or certification~~). An applicant who fails an examination may apply for reexamination upon payment of a reexamination fee. The hearing instrument fitting/dispensing reexamination fee for hearing instrument fitter/dispensers and audiologists shall be set by the secretary under RCW 43.70.250.

Sec. 6. RCW 18.35.060 and 1998 c 142 s 4 are each amended to read as follows:

The department, upon approval by the board, shall issue an interim permit authorizing an applicant for speech-language pathologist (~~certification~~) licensure or audiologist (~~certification~~) licensure who, except for the postgraduate professional experience and the examination requirements, meets the academic and practicum requirements of RCW 18.35.040(2) to practice under direct supervision. The interim permit is valid for a period of one year from date of issuance. The board shall determine conditions for the interim permit.

Sec. 7. RCW 18.35.080 and 1997 c 275 s 4 are each amended to read as follows:

(1) The department shall license (~~or certify~~) each qualified applicant who satisfactorily completes the required examinations for his or her profession and

complies with administrative procedures and administrative requirements established pursuant to RCW 43.70.250 and 43.70.280.

~~(2) ((The board shall waive the examination and grant a speech-language pathology certificate to a person engaged in the profession of speech-language pathology in this state on June 6, 1996, if the board determines that the person meets commonly accepted standards for the profession, as defined by rules adopted by the board. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.~~

~~—(3) The board shall waive the examinations and grant an audiology certificate to a person engaged in the profession of audiology in this state on June 6, 1996, if the board determines that the person meets the commonly accepted standards for the profession and has passed the hearing instrument fitter/dispenser examination. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.~~

~~—(4) The board shall grant an audiology certificate to a person engaged in the profession of audiology, who has not been licensed as a hearing instrument fitter/dispenser, but who meets the commonly accepted standards for the profession of audiology and graduated from a board-approved program after January 1, 1993, and has passed sections of the examination pertaining to RCW 18.35.070 (3), (4), and (5). Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.~~

~~—(5) Persons engaged in the profession of audiology who meet the commonly accepted standards for the profession of audiology and graduated from a board-approved program prior to January 1, 1993, and who have not passed the hearing instrument fitter/dispenser examination shall be granted a temporary audiology certificate (nondispensing) for a period of two years from June 6, 1996, during which time they must pass sections of the hearing instrument fitter/dispenser examination pertaining to RCW 18.35.070 (1)(c), (2)(c) and (f), (3), (4), and (5). The board may extend the term of the temporary certificate upon review. Persons eligible for certification under this subsection must apply for a certificate before July 1, 1997.)) The board shall waive the requirements of RCW 18.35.040 and 18.35.050 and grant an audiology license to a person who on January 1, 2003, holds a current audiology certificate issued by the department.~~

(3) The board shall waive the requirements of RCW 18.35.040 and 18.35.050 and grant a speech-language pathology license to a person who on January 1, 2003, holds a current speech-language pathology certificate issued by the department.

Sec. 8. RCW 18.35.090 and 1998 c 142 s 5 are each amended to read as follows:

Each person who engages in practice under this chapter shall comply with administrative procedures and administrative requirements established under RCW 43.70.250 and 43.70.280 and shall keep the license(~~(certificate,))~~ or interim permit conspicuously posted in the place of business at all times. The secretary may establish mandatory continuing education requirements and/or continued

competency standards to be met by licensees (~~((or certificate))~~) or interim permit holders as a condition for license(~~((certificate,))~~) or interim permit renewal.

Sec. 9. RCW 18.35.095 and 1996 c 200 s 12 are each amended to read as follows:

(1) A hearing instrument fitter/dispenser licensed under this chapter and not actively practicing may be placed on inactive status by the department at the written request of the licensee. The board shall define by rule the conditions for inactive status licensure. In addition to the requirements of RCW 43.24.086, the licensing fee for a licensee on inactive status shall be directly related to the costs of administering an inactive license by the department. A hearing instrument fitter/dispenser on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the licensing fee for the licensing year, and complying with subsection (2) of this section.

(2) Hearing instrument fitter/dispenser inactive licensees applying for active licensure shall comply with the following: A licensee who has not fitted or dispensed hearing instruments for more than five years from the expiration of the licensee's full fee license shall retake the practical or the written, or both, hearing instrument fitter/dispenser examinations required under this chapter and other requirements as determined by the board. Persons who have inactive status in this state but who are actively licensed and in good standing in any other state shall not be required to take the hearing instrument fitter/dispenser practical examination, but must submit an affidavit attesting to their knowledge of the current Washington Administrative Code rules and Revised Code of Washington statutes pertaining to the fitting and dispensing of hearing instruments.

(3) A speech-language pathologist or audiologist (~~((certified))~~) licensed under this chapter and not actively practicing either speech-language pathology or audiology may be placed on inactive status by the department at the written request of the (~~((certificate))~~) license holder. The board shall define by rule the conditions for inactive status (~~((certification))~~) licensure. In addition to the requirements of RCW 43.24.086, the fee for a (~~((certificate))~~) license on inactive status shall be directly related to the cost of administering an inactive (~~((certificate))~~) license by the department. A person on inactive status may be voluntarily placed on active status by notifying the department in writing, paying the remainder of the fee for the year, and complying with subsection (4) of this section.

(4) Speech-language pathologist or audiologist inactive (~~((certificate))~~) license holders applying for active (~~((certification))~~) licensure shall comply with requirements set forth by the board, which may include completion of continuing competency requirements and taking an examination.

Sec. 10. RCW 18.35.100 and 1998 c 142 s 6 are each amended to read as follows:

(1) Every hearing instrument fitter/dispenser, audiologist, speech-language pathologist, or interim permit holder, who is regulated under this chapter, shall notify the department in writing of the regular address of the place or places in the

state of Washington where the person practices or intends to practice more than twenty consecutive business days and of any change thereof within ten days of such change. Failure to notify the department in writing shall be grounds for suspension or revocation of the license(~~(, certificate,)~~) or interim permit.

(2) The department shall keep a record of the places of business of persons who hold licenses(~~(, certificates,)~~) or interim permits.

(3) Any notice required to be given by the department to a person who holds a license(~~(, certificate,)~~) or interim permit may be given by mailing it to the address of the last establishment or facility of which the person has notified the department, except that notice to a licensee (~~(or certificate)~~) or interim permit holder of proceedings to deny, suspend, or revoke the license(~~(, certificate,)~~) or interim permit shall be by certified or registered mail or by means authorized for service of process.

Sec. 11. RCW 18.35.105 and 1998 c 142 s 7 are each amended to read as follows:

Each licensee and (~~(certificate and)~~) interim permit holder under this chapter shall keep records of all services rendered for a minimum of three years. These records shall contain the names and addresses of all persons to whom services were provided. Hearing instrument fitter/dispensers, audiologists, and interim permit holders shall also record the date the hearing instrument warranty expires, a description of the services and the dates the services were provided, and copies of any contracts and receipts. All records, as required pursuant to this chapter or by rule, shall be owned by the establishment or facility and shall remain with the establishment or facility in the event the licensee (~~(or certificate holder)~~) changes employment. If a contract between the establishment or facility and the licensee (~~(or certificate holder)~~) provides that the records are to remain with the licensee (~~(or certificate holder)~~), copies of such records shall be provided to the establishment or facility.

Sec. 12. RCW 18.35.110 and 1998 c 142 s 8 are each amended to read as follows:

In addition to causes specified under RCW 18.130.170 and 18.130.180, any person licensed or holding an interim permit (~~(or certificate)~~) under this chapter may be subject to disciplinary action by the board for any of the following causes:

(1) For unethical conduct in dispensing hearing instruments. Unethical conduct shall include, but not be limited to:

(a) Using or causing or promoting the use of, in any advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, or any other representation, however disseminated or published, which is false, misleading or deceptive;

(b) Failing or refusing to honor or to perform as represented any representation, promise, agreement, or warranty in connection with the promotion, sale, dispensing, or fitting of the hearing instrument;

(c) Advertising a particular model, type, or kind of hearing instrument for sale which purchasers or prospective purchasers responding to the advertisement cannot purchase or are dissuaded from purchasing and where it is established that the purpose of the advertisement is to obtain prospects for the sale of a different model, type, or kind than that advertised;

(d) Falsifying hearing test or evaluation results;

(e)(i) Whenever any of the following conditions are found or should have been found to exist either from observations by the licensee or ~~((certificate or))~~ interim permit holder or on the basis of information furnished by the prospective hearing instrument user prior to fitting and dispensing a hearing instrument to any such prospective hearing instrument user, failing to advise that prospective hearing instrument user in writing that the user should first consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to any duly licensed physician:

(A) Visible congenital or traumatic deformity of the ear, including perforation of the eardrum;

(B) History of, or active drainage from the ear within the previous ninety days;

(C) History of sudden or rapidly progressive hearing loss within the previous ninety days;

(D) Acute or chronic dizziness;

(E) Any unilateral hearing loss;

(F) Significant air-bone gap when generally acceptable standards have been established as defined by the food and drug administration;

(G) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal;

(H) Pain or discomfort in the ear; or

(I) Any other conditions that the board may by rule establish. It is a violation of this subsection for any licensee ~~((or certificate holder))~~ or that licensee's ~~((or certificate holder's))~~ employees and putative agents upon making such required referral for medical opinion to in any manner whatsoever disparage or discourage a prospective hearing instrument user from seeking such medical opinion prior to the fitting and dispensing of a hearing instrument. No such referral for medical opinion need be made by any licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder in the instance of replacement only of a hearing instrument which has been lost or damaged beyond repair within twelve months of the date of purchase. The licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder or their employees or putative agents shall obtain a signed statement from the hearing instrument user documenting the waiver of medical clearance and the waiver shall inform the prospective user that signing the waiver is not in the user's best health interest: **PROVIDED**, That the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder shall maintain a copy of either the physician's statement showing that the prospective hearing

instrument user has had a medical evaluation within the previous six months or the statement waiving medical evaluation, for a period of three years after the purchaser's receipt of a hearing instrument. Nothing in this section required to be performed by a licensee or ~~((certificate or))~~ interim permit holder shall mean that the licensee or ~~((certificate or))~~ interim permit holder is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited under the laws of this state;

(ii) Fitting and dispensing a hearing instrument to any person under eighteen years of age who has not been examined and cleared for hearing instrument use within the previous six months by a physician specializing in otolaryngology except in the case of replacement instruments or except in the case of the parents or guardian of such person refusing, for good cause, to seek medical opinion: PROVIDED, That should the parents or guardian of such person refuse, for good cause, to seek medical opinion, the licensed hearing instrument fitter/dispenser or ~~((certified))~~ licensed audiologist shall obtain from such parents or guardian a certificate to that effect in a form as prescribed by the department;

(iii) Fitting and dispensing a hearing instrument to any person under eighteen years of age who has not been examined by an audiologist who holds at least a master's degree in audiology for recommendations during the previous six months, without first advising such person or his or her parents or guardian in writing that he or she should first consult an audiologist who holds at least a master's degree in audiology, except in cases of hearing instruments replaced within twelve months of their purchase;

(f) Representing that the services or advice of a person licensed to practice medicine and surgery under chapter 18.71 RCW or osteopathic medicine and surgery under chapter 18.57 RCW or of a clinical audiologist will be used or made available in the selection, fitting, adjustment, maintenance, or repair of hearing instruments when that is not true, or using the word "doctor," "clinic," or other like words, abbreviations, or symbols which tend to connote a medical or osteopathic medicine and surgery profession when such use is not accurate;

(g) Permitting another to use his or her license~~((certificate))~~ or interim permit;

(h) Stating or implying that the use of any hearing instrument will restore normal hearing, preserve hearing, prevent or retard progression of a hearing impairment, or any other false, misleading, or medically or audiology claim regarding the efficiency of a hearing instrument;

(i) Representing or implying that a hearing instrument is or will be "custom-made," "made to order," "prescription made," or in any other sense specially fabricated for an individual when that is not the case; or

(j) Directly or indirectly offering, giving, permitting, or causing to be given, money or anything of value to any person who advised another in a professional capacity as an inducement to influence that person, or to have that person influence others to purchase or contract to purchase any product sold or offered for sale by

the hearing instrument fitter/dispenser, audiologist, or interim permit holder, or to influence any person to refrain from dealing in the products of competitors.

(2) Engaging in any unfair or deceptive practice or unfair method of competition in trade within the meaning of RCW 19.86.020.

(3) Aiding or abetting any violation of the rebating laws as stated in chapter 19.68 RCW.

Sec. 13. RCW 18.35.120 and 1998 c 142 s 9 are each amended to read as follows:

A licensee or ~~((certificate or))~~ interim permit holder under this chapter may also be subject to disciplinary action if the licensee or ~~((certificate or))~~ interim permit holder:

(1) Is found guilty in any court of any crime involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and ten years have not elapsed since the date of the conviction; or

(2) Has a judgment entered against him or her in any civil action involving forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, or conspiracy to defraud and five years have not elapsed since the date of the entry of the final judgment in the action, but a license ~~((or certificate))~~ shall not be issued unless the judgment debt has been discharged; or

(3) Has a judgment entered against him or her under chapter 19.86 RCW and two years have not elapsed since the entry of the final judgment; but a license ~~((or certificate))~~ shall not be issued unless there has been full compliance with the terms of such judgment, if any. The judgment shall not be grounds for denial, suspension, nonrenewal, or revocation of a license ~~((or certificate))~~ unless the judgment arises out of and is based on acts of the applicant, licensee, ~~((certificate holder;))~~ or employee of the licensee ~~((or certificate holder;))~~; or

(4) Commits unprofessional conduct as defined in RCW 18.130.180 of the uniform disciplinary act.

Sec. 14. RCW 18.35.140 and 1998 c 142 s 10 are each amended to read as follows:

The powers and duties of the department, in addition to the powers and duties provided under other sections of this chapter, are as follows:

(1) To provide space necessary to carry out the examination set forth in RCW 18.35.070 of applicants for hearing instrument fitter/dispenser licenses or audiology ~~((certification))~~ licenses.

(2) To authorize all disbursements necessary to carry out the provisions of this chapter.

(3) To require the periodic examination of testing equipment, as defined by the board, and to carry out the periodic inspection of facilities or establishments of persons who are licensed ~~((or certified))~~ under this chapter, as reasonably required within the discretion of the department.

(4) To appoint advisory committees as necessary.

(5) To keep a record of proceedings under this chapter and a register of all persons licensed(~~(, certified,)~~) or holding interim permits under this chapter. The register shall show the name of every living licensee or interim permit holder for hearing instrument fitting/dispensing, every living ((~~certificate~~)) licensee or interim permit holder for speech-language pathology, every living ((~~certificate~~)) licensee or interim permit holder for audiology, with his or her last known place of residence and the date and number of his or her license(~~(,)~~) or interim permit(~~(, or certificate)~~).

Sec. 15. RCW 18.35.150 and 1996 c 200 s 19 are each amended to read as follows:

(1) There is created hereby the board of hearing and speech to govern the three separate professions: Hearing instrument fitting/dispensing, audiology, and speech-language pathology. The board shall consist of ten members to be appointed by the governor.

(2) Members of the board shall be residents of this state. Three members shall represent the public and shall have an interest in the rights of consumers of health services, and shall not be or have been a member of, or married to a member of, another licensing board, a licensee of a health occupation board, an employee of a health facility, nor derive his or her primary livelihood from the provision of health services at any level of responsibility. Two members shall be hearing instrument fitter/dispensers who are licensed under this chapter, have at least five years of experience in the practice of hearing instrument fitting and dispensing, and must be actively engaged in fitting and dispensing within two years of appointment. Two members of the board shall be audiologists ((~~certified~~)) licensed under this chapter who have at least five years of experience in the practice of audiology and must be actively engaged in practice within two years of appointment. Two members of the board shall be speech-language pathologists ((~~certified~~)) licensed under this chapter who have at least five years of experience in the practice of speech-language pathology and must be actively engaged in practice within two years of appointment. One advisory nonvoting member shall be a medical physician licensed in the state of Washington.

(3) The term of office of a member is three years. Of the initial appointments, one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and one consumer shall be appointed for a term of two years, and one hearing instrument fitter/dispenser, one speech-language pathologist, one audiologist, and two consumers shall be appointed for a term of three years. Thereafter, all appointments shall be made for expired terms. No member shall be appointed to serve more than two consecutive terms. A member shall continue to serve until a successor has been appointed. The governor shall either reappoint the member or appoint a successor to assume the member's duties at the expiration of his or her predecessor's term. A vacancy in the office of a member shall be filled by appointment for the unexpired term.

(4) The chair shall rotate annually among the hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and public members serving on the board. In the absence of the chair, the board shall appoint an interim chair. In event of a tie vote, the issue shall be brought to a second vote and the chair shall refrain from voting.

(5) The board shall meet at least once each year, at a place, day and hour determined by the board, unless otherwise directed by a majority of board members. The board shall also meet at such other times and places as are requested by the department or by three members of the board. A quorum is a majority of the board. A hearing instrument fitter/dispenser, speech-language pathologist, and audiologist must be represented. Meetings of the board shall be open and public, except the board may hold executive sessions to the extent permitted by chapter 42.30 RCW.

(6) Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The governor may remove a member of the board for cause at the recommendation of a majority of the board.

Sec. 16. RCW 18.35.161 and 1998 c 142 s 11 are each amended to read as follows:

The board shall have the following powers and duties:

(1) To establish by rule such minimum standards and procedures in the fitting and dispensing of hearing instruments as deemed appropriate and in the public interest;

(2) To adopt any other rules necessary to implement this chapter and which are not inconsistent with it;

(3) To develop, approve, and administer or supervise the administration of examinations to applicants for licensure (~~(and certification)~~) under this chapter;

(4) To require a licensee or (~~(certificate or)~~) interim permit holder to make restitution to any individual injured by a violation of this chapter or chapter 18.130 RCW, the uniform disciplinary act. The authority to require restitution does not limit the board's authority to take other action deemed appropriate and provided for in this chapter or chapter 18.130 RCW;

(5) To pass upon the qualifications of applicants for licensure(~~(, certification,)~~) or interim permits and to certify to the secretary;

(6) To recommend requirements for continuing education and continuing competency requirements as a prerequisite to renewing a license (~~(or certificate)~~) under this chapter;

(7) To keep an official record of all its proceedings. The record is evidence of all proceedings of the board that are set forth in this record;

(8) To adopt rules, if the board finds it appropriate, in response to questions put to it by professional health associations, hearing instrument fitter/dispensers or

audiologists, speech-language pathologists, interim permit holders, and consumers in this state; and

(9) To adopt rules relating to standards of care relating to hearing instrument fitter/dispensers or audiologists, including the dispensing of hearing instruments, and relating to speech-language pathologists, including dispensing of communication devices.

Sec. 17. RCW 18.35.172 and 1998 c 142 s 12 are each amended to read as follows:

The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses(~~(certificates)~~) and interim permits, and the discipline of licensees and (~~(certificate and)~~) permit holders under this chapter.

Sec. 18. RCW 18.35.175 and 1996 c 200 s 23 are each amended to read as follows:

It is unlawful to fit or dispense a hearing instrument to a resident of this state if the attempted sale or purchase is offered or made by telephone or mail order and there is no face-to-face contact to test or otherwise determine the needs of the prospective purchaser. This section does not apply to the sale of hearing instruments by wholesalers to licensees (~~(or certificate holders)~~) under this chapter.

Sec. 19. RCW 18.35.185 and 1998 c 142 s 13 are each amended to read as follows:

(1) In addition to any other rights and remedies a purchaser may have, the purchaser of a hearing instrument shall have the right to rescind the transaction for other than the licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed audiologist, or interim permit holder's breach if:

(a) The purchaser, for reasonable cause, returns the hearing instrument or holds it at the licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed audiologist, or interim permit holder's disposal, if the hearing instrument is in its original condition less normal wear and tear. "Reasonable cause" shall be defined by the board but shall not include a mere change of mind on the part of the purchaser or a change of mind related to cosmetic concerns of the purchaser about wearing a hearing instrument; and

(b) The purchaser sends notice of the cancellation by certified mail, return receipt requested, to the establishment employing the licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed audiologist, or interim permit holder at the time the hearing instrument was originally purchased, and the notice is posted not later than thirty days following the date of delivery, but the purchaser and the licensed hearing instrument fitter/dispenser, (~~(certified)~~) licensed audiologist, or interim permit holder may extend the deadline for posting of the notice of rescission by mutual, written agreement. In the event the hearing instrument develops a problem which qualifies as a reasonable cause for rescission or which prevents the purchaser from evaluating the hearing instrument, and the purchaser

notifies the establishment employing the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder of the problem during the thirty days following the date of delivery and documents such notification, the deadline for posting the notice of rescission shall be extended by an equal number of days as those between the date of the notification of the problem to the date of notification of availability for redeliveries. Where the hearing instrument is returned to the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder for any inspection for modification or repair, and the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder has notified the purchaser that the hearing instrument is available for redelivery, and where the purchaser has not responded by either taking possession of the hearing instrument or instructing the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder to forward it to the purchaser, then the deadline for giving notice of the rescission shall extend no more than seven working days after this notice of availability.

(2) If the transaction is rescinded under this section or as otherwise provided by law and the hearing instrument is returned to the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder, the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder shall refund to the purchaser any payments or deposits for that hearing instrument. However, the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder may retain, for each hearing instrument, fifteen percent of the total purchase price or one hundred twenty-five dollars, whichever is less. After December 31, 1996, the rescission amount shall be determined by the board. The licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder shall also return any goods traded in contemplation of the sale, less any costs incurred by the licensed hearing instrument fitter/dispenser, ~~((certified))~~ licensed audiologist, or interim permit holder in making those goods ready for resale. The refund shall be made within ten business days after the rescission. The buyer shall incur no additional liability for such rescission.

(3) For the purposes of this section, the purchaser shall have recourse against the bond held by the establishment entering into a purchase agreement with the buyer, as provided by RCW 18.35.240.

Sec. 20. RCW 18.35.190 and 1998 c 142 s 14 are each amended to read as follows:

In addition to remedies otherwise provided by law, in any action brought by or on behalf of a person required to be licensed ~~((or certified))~~ or to hold an interim permit under this chapter, or by any assignee or transferee, it shall be necessary to allege and prove that the licensee or ~~((certificate or))~~ interim permit holder at the time of the transaction held a valid license ~~((, certificate,))~~ or interim permit as required by this chapter, and that such license ~~((, certificate,))~~ or interim permit has

not been suspended or revoked pursuant to RCW 18.35.110, 18.35.120, or 18.130.160.

Sec. 21. RCW 18.35.195 and 1998 c 142 s 15 are each amended to read as follows:

(1) This chapter shall not apply to military or federal government employees.

(2) This chapter does not prohibit or regulate:

(a) Fitting or dispensing by students enrolled in a board-approved program who are directly supervised by a licensed hearing instrument fitter/dispenser, a ~~((certified))~~ licensed audiologist under the provisions of this chapter, or an instructor at a two-year hearing instrument fitter/dispenser degree program that is approved by the board; ~~((and))~~

(b) Hearing instrument fitter/dispensers, speech-language pathologists, or audiologists of other states, territories, or countries, or the District of Columbia while appearing as clinicians of bona fide educational seminars sponsored by speech-language pathology, audiology, hearing instrument fitter/dispenser, medical, or other healing art professional associations so long as such activities do not go beyond the scope of practice defined by this chapter, and

(c) The practice of audiology or speech-language pathology by persons certified by the state board of education as educational staff associates, except for those persons electing to be licensed under this chapter.

Sec. 22. RCW 18.35.205 and 1998 c 142 s 16 are each amended to read as follows:

The legislature finds that the public health, safety, and welfare would best be protected by uniform regulation of hearing instrument fitter/dispensers, speech-language pathologists, audiologists, and interim permit holders throughout the state. Therefore, the provisions of this chapter relating to the licensing ~~((or certification))~~ of hearing instrument fitter/dispensers, speech-language pathologists, and audiologists and regulation of interim permit holders and their respective establishments or facilities is exclusive. No political subdivision of the state of Washington within whose jurisdiction a hearing instrument fitter/dispenser, audiologist, or speech-language pathologist establishment or facility is located may require any registrations, bonds, licenses, certificates, or interim permits of the establishment or facility or its employees or charge any fee for the same or similar purposes: PROVIDED, HOWEVER, That nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied on all businesses, or to levy a tax based upon the gross business conducted by any firm within the political subdivision.

Sec. 23. RCW 18.35.230 and 1998 c 142 s 17 are each amended to read as follows:

(1) Each licensee or ~~((certificate or))~~ interim permit holder shall name a registered agent to accept service of process for any violation of this chapter or rule adopted under this chapter.

(2) The registered agent may be released at the expiration of one year after the license(~~(certificate,))~~) or interim permit issued under this chapter has expired or been revoked.

(3) Failure to name a registered agent for service of process for violations of this chapter or rules adopted under this chapter may be grounds for disciplinary action.

Sec. 24. RCW 18.35.240 and 2000 c 93 s 2 are each amended to read as follows:

(1) Every individual engaged in the fitting and dispensing of hearing instruments shall be covered by a surety bond of ten thousand dollars or more, for the benefit of any person injured or damaged as a result of any violation by the licensee(~~(certificate))~~) or permit holder, or their employees or agents, of any of the provisions of this chapter or rules adopted by the secretary.

(2) In lieu of the surety bond required by this section, the licensee or (~~(certificate or))~~) permit holder may deposit cash or other negotiable security in a banking institution as defined in chapter 30.04 RCW or a credit union as defined in chapter 31.12 RCW. All obligations and remedies relating to surety bonds shall apply to deposits and security filed in lieu of surety bonds.

(3) If a cash deposit or other negotiable security is filed, the licensee or (~~(certificate or))~~) permit holder shall maintain such cash or other negotiable security for one year after discontinuing the fitting and dispensing of hearing instruments.

(4) Each invoice for the purchase of a hearing instrument provided to a customer must clearly display on the first page the bond number covering the licensee or (~~(certificate or))~~) interim permit holder responsible for fitting/dispensing the hearing instrument.

(5) All licensed hearing instrument fitter/dispensers, (~~(certified))~~) licensed audiologists, and permit holders must verify compliance with the requirement to hold a surety bond or cash or other negotiable security by submitting a signed declaration of compliance upon annual renewal of their license(~~(certificate,))~~) or permit. Up to twenty-five percent of the credential holders may be randomly audited for surety bond compliance after the credential is renewed. It is the credential holder's responsibility to submit a copy of the original surety bond or bonds, or documentation that cash or other negotiable security is held in a banking institution during the time period being audited. Failure to comply with the audit documentation request or failure to supply acceptable documentation within thirty days may result in disciplinary action.

Sec. 25. RCW 18.35.250 and 2000 c 93 s 4 are each amended to read as follows:

(1) In addition to any other legal remedies, an action may be brought in any court of competent jurisdiction upon the bond, cash deposit, or security in lieu of a surety bond required by this chapter, by any person having a claim against a licensee or (~~(certificate or))~~) interim permit holder, agent, or employee for any violation of this chapter or any rule adopted under this chapter. The aggregate

liability of the surety, cash deposit, or other negotiable security to all claimants shall in no event exceed the sum of the bond. Claims shall be satisfied in the order of judgment rendered.

(2) An action upon the bond, cash deposit, or other negotiable security shall be commenced by serving and filing a complaint.

Sec. 26. RCW 18.35.260 and 1998 c 142 s 20 are each amended to read as follows:

(1) A person who is not a licensed (~~((with the secretary as a))~~) hearing instrument fitter/dispenser (~~((under the requirements of this chapter))~~) may not represent himself or herself as being so licensed and may not use in connection with his or her name the words "licensed hearing instrument fitter/dispenser," "hearing instrument specialist," or "hearing aid fitter/dispenser," or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a licensed hearing instrument fitter/dispenser.

(2) A person who is not (~~((certified with the secretary as))~~) a licensed speech-language pathologist (~~((under the requirements of this chapter))~~) may not represent himself or herself as being so (~~((certified))~~) licensed and may not use in connection with his or her name the words including "~~((certified))~~ licensed speech-language pathologist" or a variation, synonym, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions as a (~~((certified))~~) licensed speech-language pathologist.

(3) A person who is not (~~((certified with the secretary as an))~~) a licensed audiologist (~~((under the requirements of this chapter))~~) may not represent himself or herself as being so (~~((certified))~~) licensed and may not use in connection with his or her name the words "~~((certified))~~ licensed audiologist" or a variation, synonym, letter, word, sign, number, insignia, coinage, or whatever expresses, employs, or implies these terms, names, or functions of a (~~((certified))~~) licensed audiologist.

(4) Nothing in this chapter prohibits a person credentialed in this state under another act from engaging in the practice for which he or she is credentialed.

NEW SECTION. Sec. 27. This act takes effect January 1, 2003.

Passed the House March 9, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 311

[House Bill 2625]

COMMERCIAL FISHING—GEAR

AN ACT Relating to eliminating the exclusivity of gill net gear in certain waters; amending RCW 77.50.010; 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 legislature finds that the economic well-being and stability of the fishing industry and the conservation of the food fish resources of the state of Washington are best served by providing managers with all available tools to stabilize and distribute the commercial harvest of targeted Puget Sound salmon stocks. In recent years, segments of the industry in cooperation with the department of fish and wildlife have funded studies examining modification of harvest practices and fishing gear, particularly purse seine gear, to minimize or avoid impacts on nontargeted Puget Sound salmon stocks.

The legislature finds that the new Pacific salmon treaty agreement of 1999 will drastically reduce the commercial harvest of Fraser river sockeye salmon while likely providing increased harvest opportunities in areas of Puget Sound where only gill net gear is now authorized. This exclusive limitation is contrary to the long-term needs of the fishing industry and inconsistent with the legislature's intent to stabilize harvest levels while selectively targeting healthy salmon stocks.

Sec. 2. RCW 77.50.010 and 1998 c 190 s 75 are each amended to read as follows:

(1) The commission may authorize commercial fishing for sockeye salmon within the waters described in subsection (2) of this section only during the period June 10th to July 25th and for other salmon only from the second Monday of September through November 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m. of the following Sunday.

(2) All waters east and south of a line commencing at a concrete monument on Angeles Point in Clallam county near the mouth of the Elwha River on which is inscribed "Angeles Point Monument" (latitude 48° 9' 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence running east on a line 81° 30' true across the flashlight and bell buoy off Partridge Point and thence continued to longitude 122° 40' west; thence north to the southerly shore of Sinclair Island; thence along the southerly shore of the island to the most easterly point of the island; thence 46° true to Carter Point, the most southerly point of Lummi Island; thence northwesterly along the westerly shore line of Lummi Island to where the shore line intersects line of longitude 122° 40' west; thence north to the mainland, including: The southerly portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and their inlets, passages, waters, waterways, and tributaries.

(3) The commission may authorize commercial fishing for salmon with gill net, purse seine, and other lawful gear prior to the second Monday in September within the waters of Hale Passage, Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel, Skagit Bay, and Similk Bay, to wit: Those waters northerly and easterly of a line commencing at Stanwood, thence along the south shore of Skagit Bay to Rocky Point on Camano Island; thence northerly to Polnell Point on Whidbey Island.

(4) Whenever the commission determines that a stock or run of salmon cannot be harvested in the usual manner, and that the stock or run of salmon may be in danger of being wasted and surplus to natural or artificial spawning requirements, the commission may authorize units of gill net and purse seine gear in any number or equivalents, by time and area, to fully utilize the harvestable portions of these salmon runs for the economic well being of the citizens of this state. Gill net and purse seine gear other than emergency and test gear authorized by the director shall not be used in Lake Washington.

(5) The commission may authorize commercial fishing for pink salmon in each odd-numbered year from August 1st through September 1st in the waters lying inside of a line commencing at the most easterly point of Dungeness Spit and thence projected to Point Partridge on Whidbey Island and a line commencing at Olele Point and thence projected easterly to Bush Point on Whidbey Island.

NEW SECTION. Sec. 3. Section 2 of this act takes effect July 1, 2002.

Passed the House February 11, 2002.

Passed the Senate March 2, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 312

[Substitute House Bill 2648]

OFFICE OF FINANCIAL MANAGEMENT—BUDGET INSTRUCTIONS

AN ACT Relating to the office of financial management; amending RCW 43.88.030; adding a new section to chapter 43.88 RCW; and adding a new section to chapter 43.88A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.88 RCW to read as follows:

(1) The office of financial management must include in its capital budget instructions, beginning with its instructions for the 2003-05 capital budget, a request for "yes" or "no" answers for the following additional informational questions from capital budget applicants for all proposed major capital construction projects valued over five million dollars and required to complete a predesign:

(a) For proposed capital projects identified in this subsection that are located in or serving city or county planning under RCW 36.70A.040:

(i) Whether the proposed capital project is identified in the host city or county comprehensive plan, including the capital facility plan, and implementing rules adopted under chapter 36.70A RCW;

(ii) Whether the proposed capital project is located within an adopted urban growth area:

(A) If at all located within an adopted urban growth area boundary, whether a project facilitates, accommodates, or attracts planned population and employment growth;

(B) If at all located outside an urban growth area boundary, whether the proposed capital project may create pressures for additional development;

(b) For proposed capital projects identified in this subsection that are requesting state funding:

(i) Whether there was regional coordination during project development;

(ii) Whether local and additional funds were leveraged;

(iii) Whether environmental outcomes and the reduction of adverse environmental impacts were examined.

(2) For projects subject to subsection (1) of this section, the office of financial management shall request the required information be provided during the predesign process of major capital construction projects to reduce long-term costs and increase process efficiency.

(3) The office of financial management, in fulfilling its duties under RCW 43.88.030(3) to create a capital budget document, must take into account information gathered under subsections (1) and (2) of this section in an effort to promote state capital facility expenditures that minimize unplanned or uncoordinated infrastructure and development costs, support economic and quality of life benefits for existing communities, and support local government planning efforts.

(4) The office of community development must provide staff support to the office of financial management and affected capital budget applicants to help collect data required by subsections (1) and (2) of this section.

***Sec. 2. RCW 43.88.030 and 2000 2nd sp.s. c 4 s 12 are each amended to read as follows:**

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the

estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast council. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and agency;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the

long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost, including the cost of the raw land, any in lieu of real property taxes, and the cost of development;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) *Such other information bearing upon capital projects as the governor deems to be useful;*

(r) *Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;*

(s) *Such other information as the legislature may direct by law or concurrent resolution.*

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) *No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.*

*Sec. 2 was vetoed. See message at end of chapter.

***NEW SECTION.** *Sec. 3. A new section is added to chapter 43.88A RCW to read as follows:*

Except for transportation projects, trust lands, or purchase or exchange of land by institutions of higher education under RCW 28B.10.016, the legislature must have a fiscal note prepared for any purchase or exchange of land authorized in a capital budget or by separate appropriation. The appropriate legislative fiscal committees must request a fiscal note containing the following:

(1) *Cost of raw land;*

(2) *Cost of ongoing maintenance;*

(3) *Cost of ongoing operations and source of funding;*

(4) *Employee costs on a full-time equivalent basis including administrative costs;*

(5) *Cost of development;*

(6) *Any other known costs; and*

(7) *Any in lieu of real property taxes, including amounts due junior taxing districts.*

*Sec. 3 was vetoed. See message at end of chapter.

Passed the House February 15, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2002.

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

"I am returning herewith, without my approval as to sections 2 and 3, Substitute House Bill No. 2648 entitled:

"AN ACT Relating to the office of financial management;"

This bill adds a new section to the law governing budget instructions issued by the Office of Financial Management (OFM), and directs the Office of Community Development to assist in collecting capital budget information. The intent of the bill is to coordinate development of state facilities, and other capital infrastructure projects, with local jurisdictions at early stages of project planning. This is a goal I support.

Sections 2 and 3 of the bill would have required estimates of total capital project cost to include the cost of the raw land, any revenues in lieu of property taxes, and the cost of development in OFM-issued fiscal notes. These requirements would be premature within the fiscal note development process, and costly to estimate for both the state and local government.

For these reasons, I have vetoed sections 2 and 3 of Substitute House Bill No. 2648.

With the exception of sections 2 and 3, Substitute House Bill No. 2648 is approved."

CHAPTER 313

[Engrossed Substitute House Bill 2688]

COMMODITY BOARDS AND COMMISSIONS

AN ACT Relating to regulating commodity boards and commissions; amending RCW 15.65.020, 15.65.040, 15.65.050, 15.65.060, 15.65.070, 15.65.090, 15.65.120, 15.65.170, 15.65.180, 15.65.200, 15.65.220, 15.65.230, 15.65.235, 15.65.240, 15.65.250, 15.65.260, 15.65.270, 15.65.280, 15.65.375, 15.65.380, 15.65.430, 15.65.450, 15.65.570, 15.66.010, 15.66.030, 15.66.050, 15.66.060, 15.66.070, 15.66.090, 15.66.110, 15.66.120, 15.66.130, 15.66.140, 15.66.180, 15.66.185, 15.66.245, 15.66.260, 42.17.31907, 16.67.030, 16.67.070, 16.67.090, 16.67.120, 16.67.122, 15.44.010, 15.44.020, 15.44.035, 15.44.038, 15.44.060, 15.44.070, 15.44.080, 15.44.085, 15.44.110, 15.44.140, 15.44.150, 15.28.010, 15.28.020, 15.28.110, 15.28.130, 15.28.250, 15.88.050, 15.76.150, 15.24.010, 15.24.020, 15.24.040, 15.24.050, 15.24.070, 15.24.080, 15.24.085, 15.24.090, 15.24.100, 15.24.110, 15.24.160, 15.24.170, 15.24.800, 15.24.802, 15.24.806, 15.24.808, 15.24.812, 15.24.818, 15.24.900, 15.26.130, and 15.26.250; adding new sections to chapter 15.65 RCW; adding new sections to chapter 15.66 RCW; adding new sections to chapter 15.26 RCW; adding new sections to chapter 15.28 RCW; adding new sections to chapter 15.44 RCW; adding new sections to chapter 15.88 RCW; adding new sections to chapter 16.67 RCW; adding new sections to chapter 15.24 RCW; adding new sections to chapter 43.23 RCW; adding a new section to chapter 15.88 RCW; creating a new section; repealing RCW 15.65.030, 15.65.080, 15.65.460, 15.65.405, 15.66.020, 16.67.020, 15.44.037, 15.44.900, and 15.28.900; prescribing penalties; providing an effective date; providing an expiration date; and declaring an emergency.

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

Sec. 1. RCW 15.65.020 and 1993 c 80 s 2 are each amended to read as follows:

The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his or her duly appointed representative. The phrase "director or his or her designee" means the director unless, in the provisions of any marketing agreement

or order, he or she has designated an administrator, board, or other designee to act ((~~for him~~)) in the matter designated, in which case "director or his or her designee" means for such order or agreement the administrator, board, or other person(s) so designated and not the director.

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

(3) "Marketing order" means an order ((~~issued~~)) adopted by the director ((~~pursuant to~~)) under this chapter that establishes a commodity board for an agricultural commodity or agricultural commodities with like or common qualities or producers.

(4) "Marketing agreement" means an agreement entered into and issued by the director pursuant to this chapter.

(5) "Agricultural commodity" means any of the following commodities or products: Llamas, alpacas, or any other animal or any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable, or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, either in its natural or processed state, including beehives containing bees and honey and Christmas trees but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or sub-types should be classed together as an agricultural commodity for the purposes of this chapter.

(6) "Production area" and "marketing area" means any area defined as such in any marketing order or agreement in accordance with RCW 15.65.350. "Affected area" means the marketing or production area so defined in such order, agreement or proposal.

(7) "Unit" of an agricultural commodity means a unit of volume, weight, quantity, or other measure in which such commodity is commonly measured. The director shall designate in each marketing order and agreement the unit to be used therein.

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is stored in frozen condition or sold or marketed or delivered for sale or marketing within such marketing area: **PROVIDED**, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

(9) "Affected commodity" means that part or portion of any agricultural commodity which is covered by or forms the subject matter of any marketing

agreement or order or proposal, and includes all affected units thereof as herein defined and no others.

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer (~~(of an affected commodity)~~) who is subject to a marketing order or agreement. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(11) "Handler" means any person who acts, either as principal, agent or otherwise, in processing, selling, marketing or distributing an agricultural commodity or storage of a frozen agricultural commodity which was not produced by him or her. "Handler" does not mean a common carrier used to transport an agricultural commodity. "Affected handler" means any handler of an affected commodity. "To handle" means to act as a handler.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he or she produces, and a handler with respect to the agricultural commodities which he or she handles, including those produced by himself or herself.

(13) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of congress of the United States of February 18, 1922 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(14) "Member of a cooperative association" means any producer who markets his or her product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is a party to a marketing agreement with such cooperative association with respect to such product.

(15) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer or cooperative association of producers in preparing for market and marketing, and shall include: (a) selling any agricultural commodity produced by such producer(s) to any handler; (b) delivering any such commodity or otherwise disposing of it for commercial purposes to or through any handler.

(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm

on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his or her discretion: (a) Determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he or she finds to be similarly situated.

(17) "Commodity board" means any board established pursuant to RCW 15.65.220. "Board" means any such commodity board unless a different board is expressly specified.

(18) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(19) "Section" means a section of this chapter unless some other statute is specifically mentioned. The present includes the past and future tenses, and the past or future the present. The masculine gender includes the feminine and neuter. The singular number includes the plural and the plural includes the singular.

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected commodity in a form which the director finds meets the requirements of this chapter. "Referendum" means a vote by the affected parties or affected producers which is conducted by secret ballot.

(21) "Person" (~~as used in this chapter shall mean any person, firm, association or corporation~~) means any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals, or any unit or agency of local, state, or federal government.

(22) "Affected parties" means any producer, affected producer, handler, or commodity board member.

(23) "Assessment" means the monetary amount established in a marketing order or agreement that is to be paid by each affected producer to a commodity board in accordance with the schedule established in the marketing order or agreement.

(24) "List of affected parties" means a list containing the names and mailing addresses of affected parties. This list shall contain the names and addresses of all affected parties and, if requested by the director, the amount, by unit, of the affected commodity produced during a designated period under this chapter.

(25) "List of affected producers" means a list containing the names and mailing addresses of affected producers. This list shall contain the names and addresses of all affected producers and, if requested by the director, the amount, by unit, of the affected commodity produced during a designated period under this chapter.

(26) "List of affected handlers" means a list containing the names and addresses of affected handlers. This list shall contain the names and addresses of all affected handlers and, if requested by the director, the amount, by unit, of the affected commodity handled during a designated period under this chapter.

(27) "Mail" or "send" for purposes of any notice relating to rule making, referenda, or elections means regular mail or electronic distribution, as provided in RCW 34.05.260 for rule making. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

(28) "Percent by numbers" means the percent of those persons on the list of affected parties or affected producers.

(29) "Rule-making proceedings" means the rule-making provisions as outlined in chapter 34.05 RCW.

(30) "Vacancy" means that a board member leaves or is removed from a board position prior to the end of a term, or a nomination process for the beginning of a term concludes with no candidates for a position.

(31) "Volume of production" means the percent of the average volume of production of the affected commodity of those on the list of affected parties or affected producers for a production period. For the purposes of this chapter, a production period is a minimum three-year period or as specified in the marketing order or agreement.

NEW SECTION. Sec. 2. A new section is added to chapter 15.65 RCW to read as follows:

The history, economy, culture, and the future of Washington state to a large degree all involve agriculture. In order to develop and promote Washington's agricultural products as part of the existing comprehensive scheme to regulate agricultural commodities, the legislature declares:

(1) That the marketing of agricultural products within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its agricultural commodities be properly promoted by (a) enabling producers of agricultural commodities to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the commodities they produce and (b) working towards stabilizing the agricultural industry by increasing consumption of agricultural commodities within the state, the nation, and internationally;

(2) That farmers and ranchers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the agricultural producer's ability to compete in local, domestic, and foreign markets;

(3) That it is now in the overriding public interest that support for the agricultural industry be clearly expressed, that adequate protection be given to agricultural commodities, uses, activities, and operations, and that each agricultural commodity be promoted individually, and as part of a comprehensive industry to:

- (a) Enhance the reputation and image of Washington state's agricultural commodities;
 - (b) Increase the sale and use of Washington state's agricultural commodities in local, domestic, and foreign markets;
 - (c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's agricultural commodities;
 - (d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's agricultural commodities and products; and
 - (e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of agricultural commodities produced in Washington state;
- (4) That the director seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber, and seek to maintain the economic well-being of the agricultural industry in Washington state consistent with its regulatory activities and responsibilities;
- (5) That the director is hereby authorized to implement, administer, and enforce this chapter through the adoption of marketing orders that establish commodity boards; and
- (6) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

NEW SECTION. **Sec. 3.** A new section is added to chapter 15.65 RCW to read as follows:

This chapter and the rules adopted under it are only one aspect of the comprehensively regulated agricultural industry.

(I) Other laws applicable to agricultural commodities include the following chapters and the rules adopted thereunder:

- Chapter 15.08 RCW Horticultural pests and diseases;
- Chapter 15.13 RCW Horticultural plants and facilities—Inspection and licensing;
- Chapter 15.14 RCW Planting stock;
- Chapter 15.15 RCW Certified seed potatoes;
- Chapter 15.17 RCW Standards of grades and packs;
- Chapter 15.19 RCW Certification and inspection of ginseng;
- Chapter 15.30 RCW Controlled atmosphere storage of fruits and vegetables;
- Chapter 15.49 RCW Seeds;
- Chapter 15.53 RCW Commercial feed;
- Chapter 15.54 RCW Fertilizers, minerals, and limes;
- Chapter 15.58 RCW Washington pesticide control act;
- Chapter 15.60 RCW Apiaries;
- Chapter 15.64 RCW Farm marketing;
- Chapter 15.83 RCW Agricultural marketing and fair practices;

Chapter 15.85 RCW Aquaculture marketing;
 Chapter 15.86 RCW Organic food products;
 Chapter 15.92 RCW Center for sustaining agriculture and natural resources;
 Chapter 17.24 RCW Insect pests and plant diseases;
 Chapter 19.94 RCW Weights and measures;
 Chapter 20.01 RCW Agricultural products—Commission merchants, dealers,
 brokers, buyers, agents;

Chapter 22.09 RCW Agricultural commodities;

Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including provisions
 of 21 C.F.R. relating to the general manufacturing practices, food labeling, food
 standards, food additives, and pesticide tolerances;

Chapter 69.07 RCW Washington food processing act;

Chapter 69.25 RCW Washington wholesome eggs and egg products act;

Chapter 69.28 RCW Honey;

7 U.S.C., section 136, Federal Insecticide, Fungicide, and Rodenticide Act.

(2) In addition to the laws and regulations listed in subsection (1) of this
 section that apply to the agricultural industry as a whole, the dry pea and lentil
 industry is regulated by or must comply with the additional laws and rules adopted
 under 7 U.S.C., chapter 38, Agricultural Marketing Act.

Sec. 4. RCW 15.65.040 and 2001 c 315 s 4 are each amended to read as
 follows:

~~(It is hereby declared to be the policy of this chapter)~~ The director may adopt
 a marketing order that establishes a commodity board under this chapter for any of
 the following purposes:

(1) To aid agricultural producers in preventing economic waste in the
 marketing of their agricultural commodities and in developing more efficient
 methods of marketing agricultural products.

(2) To enable agricultural producers of this state, with the aid of the state:

(a) To develop, and engage in research for developing, better and more
 efficient production, irrigation, processing, transportation, handling, marketing, and
 utilization of agricultural products;

(b) To establish orderly marketing of agricultural commodities;

(c) To provide for uniform grading and proper preparation of agricultural
 commodities for market;

(d) To provide methods and means (including, but not limited to, public
 relations and promotion) for the maintenance of present markets and for the
 development of new or larger markets, both domestic and foreign, for agricultural
 commodities produced within this state and for the prevention, modification, or
 elimination of trade barriers which obstruct the free flow of such agricultural
 commodities to market;

(e) To eliminate or reduce economic waste in the marketing and/or use of
 agricultural commodities;

(f) To restore and maintain adequate purchasing power for the agricultural producers of this state;

(g) To provide information or communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of an agricultural commodity produced in Washington state to any elected official or officer or employee of any agency;

(h) To provide marketing information and services for producers of an agricultural commodity;

(i) To provide information and services for meeting resource conservation objectives of producers of an agricultural commodity;

(j) To engage in cooperative efforts in the domestic or foreign marketing of food products of an agricultural commodity;

(k) To provide for commodity-related education and training; and

(l) To accomplish all the declared policies of this chapter.

(3) To protect the interest of consumers by assuring a sufficient pure and wholesome supply of agricultural commodities of good quality at all seasons and times.

Sec. 5. RCW 15.65.050 and 1961 c 256 s 5 are each amended to read as follows:

The director shall administer and enforce this chapter and it shall be his or her duty to carry out its provisions and put them into force in accordance with its terms, but issuance, amendment, modification, and/or suspension (~~(and/or termination)~~) of marketing agreements and orders and of any terms or provisions thereof shall be accomplished according to the procedures set forth in this chapter and not otherwise. Whenever he or she has reason to believe that the issuance(;) or amendment (~~(or termination)~~) of a marketing agreement or order will tend to effectuate any declared policy or purpose of this chapter with respect to any agricultural commodity, and in the case of application for issuance or amendment ten or more producers of such commodity apply or (~~(in the case of application for termination ten percent of the affected producers so apply)~~) when a petition for amendment is submitted by majority vote of a commodity board, then the director shall give due notice of, and an opportunity for, a public hearing upon such issuance(;) or amendment (~~(or termination)~~), and (~~(he)~~) the director shall issue marketing agreements and orders containing the provisions specified in this chapter and from time to time amend (~~(or terminate)~~) the same whenever upon compliance with and on the basis of facts adduced in accordance with the procedural requirements of this chapter he or she shall find that such agreement, order, or amendment:

(1) Will tend to effectuate one or more of the declared policies of this chapter and is needed in order to effectuate the same.

(2) Is reasonably adapted to accomplish the purposes and objects for which it is issued and complies with the applicable provisions of this chapter.

(3) Has been approved or favored by the percentages of producers and/or handlers specified in and ascertained in accordance with this chapter.

Sec. 6. RCW 15.65.060 and 1961 c 256 s 6 are each amended to read as follows:

The director shall cause any (~~proposed~~) marketing agreement, order proposed for issuance, or amendment (~~or termination~~) to be set out in detailed form and reduced to writing, which writing is herein designated "proposal." The director shall make and maintain on file in the office of the department a copy of each proposal and a full and complete record of all notices, hearings, findings, decisions, assents, and all other proceedings relating to each proposal and to each marketing agreement and order.

NEW SECTION. **Sec. 7.** A new section is added to chapter 15.65 RCW to read as follows:

(1) The director may adopt rules necessary to carry out the director's duties and responsibilities under this chapter including:

(a) The issuance, amendment, or termination of marketing orders or agreements;

(b) Procedural, technical, or administrative rules which may address and include, but are not limited to:

(i) The submission of a petition to issue, amend, or terminate a marketing order or agreement under this chapter;

(ii) Nominations conducted under this chapter;

(iii) Elections of board members or referenda conducted under this chapter;

(iv) Actions of the director upon a petition to issue, amend, or terminate a marketing order or agreement;

(c) Rules that provide for a method to fund:

(i) The costs of staff support for all commodity boards and commissions in accordance with section 78 of this act if the position is not directly funded by the legislature; and

(ii) The actual costs related to the specific activity undertaken on behalf of an individual commodity board or commission.

(2) The director may adopt amendments to marketing agreements or orders without conducting a referendum if the amendments are adopted under the following criteria:

(a) The proposed amendments relate only to internal administration of a marketing order or agreement and are not subject to violation by a person;

(b) The proposed amendments adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, or rules of other Washington state agencies, if the material adopted or incorporated regulates the same activities as are authorized under the marketing order or agreement;

(c) The proposed amendments only correct typographical errors, make address or name changes, or clarify language of a rule without changing the marketing order or agreement; and

(d) The content of the proposed amendments is explicitly and specifically dictated by statute.

A marketing order or agreement shall not be amended without a referendum to provide that a majority of the commodity board members be appointed by the director.

Sec. 8. RCW 15.65.070 and 1987 c 393 s 5 are each amended to read as follows:

The director shall publish notice of any hearing called for the purpose of considering and acting upon any proposal for a period of not less than two days in one or more newspapers of general circulation as the director may prescribe. No such public hearing shall be held prior to five days after the last day of such period of publication. Such notice shall set forth the date, time and place of said hearing, the agricultural commodity and the area covered by such proposal; a concise statement of the proposal; a concise statement of each additional subject upon which the director will hear evidence and make a determination, and a statement that, and the address where, copies of the proposal may be obtained. The director shall also mail ~~((a copy of such))~~ notice to all producers and handlers within the affected area who may be directly affected by such proposal and whose names and addresses appear, on the day next preceding the day on which such notice is published, upon lists of such persons then on file in the department.

Sec. 9. RCW 15.65.090 and 1961 c 256 s 9 are each amended to read as follows:

~~((In any and every hearing conducted pursuant to any provision of this chapter))~~ The director ~~((and/or such examiner))~~ shall have the power to issue subpoenas for the production of any books, records, or documents of any kind and to subpoena witnesses to be produced or to appear (as the case may be) in the county wherein the principal party involved in such hearing resides. No person shall be excused from attending and testifying or from producing documentary evidence before the director in obedience to the subpoena of the director on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture, but no natural person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he or she may be so required to testify or produce evidence, documentary or otherwise, before the director in obedience to a subpoena issued by him or her: PROVIDED, That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying. The superior court of the county in which any such hearing or proceeding may be had, may compel the attendance of witnesses and the production of records, papers, books, accounts, documents and testimony as required by such subpoena. In case

any witness refuses to attend or testify or produce any papers required by the subpoena, the director or his or her examiner shall so report to the superior court of the county in which the proceeding is pending by petition setting forth that due notice was given of the time and place of attendance of ~~((said))~~ the witness or the production of ~~((said))~~ the papers and that the witness has been summoned in the manner prescribed in this chapter and that the fees and mileage of the witness have been paid or tendered to him or her in accordance with RCW 2.40.020 and that he or she has failed to attend or produce the papers required by the subpoena at the hearing, cause, or proceeding specified in the notice and subpoena, or has refused to answer questions propounded to him or her in the course of such hearing, cause or proceeding, and shall ask an order of the court to compel such witness to appear and testify before the director. 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 show cause why he or she has not responded to the subpoena. A certified copy of the show cause order shall be served upon the witness. If it shall appear to the court that the subpoena was regularly issued, the court shall enter a decree that ~~((said))~~ the witness appear at the time and place fixed in the decree and testify or produce the required papers, and on failing to obey said decree the witness shall be dealt with as for contempt of court.

Sec. 10. RCW 15.65.120 and 1985 c 261 s 3 are each amended to read as follows:

The recommended decision shall contain the text in full of any recommended agreement, order, or amendment ~~((or termination))~~, and may deny or approve the proposal in its entirety, or it may recommend a marketing agreement, order, or amendment ~~((or termination))~~ containing other or different terms or conditions from those contained in the proposal: PROVIDED, That the same shall be of a kind or type substantially within the purview of the notice of hearing and shall be supported by evidence taken at the hearing or by documents of which the director is authorized to take official notice. The final decision shall set out in full the text of the agreement, order, or amendment ~~((or termination))~~ covered thereby, and the director shall issue and deliver or mail copies of ~~((said))~~ the final decision to all producers and handlers within the affected area who may be directly affected by such final decision and whose names and addresses appear, on the day next preceding the day on which such final decision is issued, upon the lists of such persons then on file in the department, and to all parties of record appearing at the hearing, or their attorneys of record. If the final decision denies the proposal in its entirety no further action shall be taken by the director.

Sec. 11. RCW 15.65.170 and 1987 c 393 s 6 are each amended to read as follows:

If the director determines that the requisite assent has been given ~~((he shall issue and put any order or amendment thereto into force, whereupon each and every provision thereof shall have the force of law. Issuance shall be accomplished by publication of a notice for one day in a newspaper of general circulation in the~~

~~affected area. The notice shall state that the order has been issued and put into force and where copies of such order may be obtained))~~ to issue or amend a marketing order, the issuance or amendment shall be adopted by rule by the director within thirty days of the validation of the vote. If the director determines that the requisite assent has not been given no further action shall be taken by the director upon the proposal, and the order contained in the final decision shall be without force or effect.

NEW SECTION. Sec. 12. A new section is added to chapter 15.65 RCW to read as follows:

The director shall not be required to hold a public hearing or a referendum more than once in any twelve-month period on petitions to issue, amend, or terminate a commodity marketing order if any of the following circumstances are present:

- (1) The petition proposes to establish a marketing order or agreement for the same commodity;
- (2) The petition proposes the same or a similar amendment to a marketing order or agreement; or
- (3) The petition proposes to terminate the same marketing order or agreement.

Sec. 13. RCW 15.65.180 and 1961 c 256 s 18 are each amended to read as follows:

The director may, upon the advice of the commodity board serving under any marketing agreement or order and without compliance with the provisions of RCW 15.65.050 through 15.65.170(~~(~~

~~(1) Amend any marketing agreement or order as to any minor matter or wording which does not substantially alter the provisions and intention of such agreement or order;~~

~~(2)), suspend any such agreement or order or term or provision thereof for a period of not to exceed one year, if ((he)) the director finds that such suspension will tend to effectuate the declared policy of this chapter(~~(- PROVIDED, That)),~~ Any ((such)) suspension of all or substantially all of ((such)) a marketing agreement or order by the director shall not become effective until the end of the then current marketing season.~~

NEW SECTION. Sec. 14. A new section is added to chapter 15.65 RCW to read as follows:

The director may terminate a marketing order or agreement in accordance with this chapter.

- (1) To terminate a marketing order or agreement:
 - (a) The director must receive a petition by affected producers under this chapter signed by at least ten percent of the affected producers; or
 - (b) A majority of a commodity board may file a petition with the director.
- (2) The petitioners must include in the petition at the time of filing:

(a) A statement of why the marketing order or agreement and the commodity board created under it no longer meets the purposes of this chapter;

(b) The name of a person designated to represent the petitioners; and

(c) The effective date of a marketing order or agreement termination, which may not be less than one year from the date the petition was filed with the director.

(3) Within sixty days of receipt of a petition meeting the requirements of this section, the director shall commence rule-making proceedings to repeal the marketing order or agreement and, subsequently, a referendum on the issue.

(4) The director shall include a copy of a petition to terminate a marketing order or agreement with the notice to affected producers when rule-making proceedings are commenced.

(5) If the petitioners fail to meet the requirements of this chapter, the director shall deny the petition and a referendum vote will not be conducted. The person designated to represent the petitioners shall be notified if a petition is denied.

NEW SECTION. Sec. 15. A new section is added to chapter 15.65 RCW to read as follows:

Except as provided in RCW 15.65.190 or subsection (4) of this section, the director, prior to termination of the marketing order or agreement, shall conduct a referendum as provided in this chapter, the rules adopted by the director, and the applicable marketing order or agreement.

(1) If a referendum on the termination of a marketing order or agreement is assented to, the referendum proposal shall be adopted by the director within thirty days of the count of the ballots and shall go into effect under chapter 34.05 RCW. If those affected producers eligible to vote in the referendum do not assent, no further action shall be taken by the director on the proposal.

(2) The list of affected producers used for conducting a referendum on the termination of a marketing order or agreement shall be kept in the rule-making file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected producer does not invalidate a referendum.

(3) The list of affected producers that is certified as the true representation of the mailing list of a referendum shall be used to determine assent as provided for in RCW 15.65.190.

(4) If the director determines that one hundred percent of the affected producers have filed a written application with the director requesting that a marketing order or agreement be terminated, the director may terminate the marketing order or agreement without conducting a referendum. The termination of the marketing order or agreement shall go into effect under chapter 34.05 RCW, but no sooner than at the end of the marketing season then current.

NEW SECTION. Sec. 16. A new section is added to chapter 15.65 RCW to read as follows:

If after complying with the procedures outlined in this chapter and a referendum proposal to terminate a marketing order or agreement is assented to, the affected commodity board shall:

(1) Document the details of all measures undertaken to terminate the marketing order and identify and document all closing costs;

(2) Contact the office of the state auditor and arrange for a final audit of the commodity board. Payment for the audit shall be from commodity board funds and identified in the budget for closing costs;

(3) Provide for the reimbursement to affected producers of moneys collected by assessment. Reimbursement shall be made to those considered affected producers over the previous three-year time frame on a pro rata basis and at a percent commensurate with their volume of production over the previous three-year period unless a different time period is specified in the marketing order or agreement. If the commodity board finds that the amounts of moneys are so small as to make impractical the computation and remitting of the pro rata refund, the moneys shall be paid into the state treasury as unclaimed trust moneys; and

(4) Transfer all remaining files to the department for storage and archiving, as appropriate.

Sec. 17. RCW 15.65.200 and 1985 c 261 s 8 are each amended to read as follows:

(1) Whenever application is made for the issuance of a marketing agreement or order or the director otherwise determines to hold a hearing for the purpose of such issuance, the director or ~~((his))~~ a designee shall ~~((cause lists to be prepared from any information which he has at hand or which he may obtain from producers, associations of producers and handlers of the affected commodity. Such lists shall contain the names and addresses of persons who produce the affected commodity within the affected area, the amount of such commodity produced by each such person during the period which the director determines for the purposes of the agreement or order to be representative, and the name of any cooperative association authorized to market for him within the affected area the commodity specified in the marketing agreement or order. Such lists shall also contain the names and addresses of persons who handle the affected commodity within the affected area and the amount of such commodity handled by each person during the period which the director determines for the purposes of the agreement or order to be representative. Any qualified person may at any time have his name placed upon any list for which he qualifies by delivering or mailing his name, address and other information to the director and in such case the director shall verify such person's qualifications and if he qualifies, place his name upon such list. At every hearing upon the issuance, amendment or termination of such order or agreement the director or his designee shall take evidence for the purpose of making such lists complete and accurate and he may employ his powers of subpoena of witnesses and of books, records and documents for such purpose. After every such hearing the director shall compile, complete, correct and bring lists up to date in accordance~~

~~with the evidence and information obtained at such hearing. For all purposes of giving notice, holding referenda and electing members of commodity boards, the lists on hand corrected up to the day next preceding the date for issuing notices or ballots as the case may be shall, for all purposes of this chapter, be deemed to be the list of all persons entitled to notice or to assent or dissent or to vote))~~ establish a list of affected parties along with volume of production data covering a minimum three-year period, or in such lesser time as the affected party has produced the commodity in question, from information provided by the petitioners, by obtaining information on affected parties from applicable producer, handler, or processor organizations or associations or other sources identified as maintaining the information.

(2) The director shall use the list of affected parties for the purpose of notice, referendum proceedings, and electing and selecting members of commodity boards in accordance with this chapter.

(3) An affected party may at any time file his or her name and mailing address with the director. A list of affected parties may be brought up-to-date by the director up to the day preceding a mailing of a notice or ballot under this chapter and that list is deemed the list of affected parties entitled to vote.

(4) The list of affected parties used for the issuance of a marketing order or agreement shall be kept in a file maintained by the director. The list shall be certified as a true representation of the mailing list. Inadvertent failure to notify an affected party does not invalidate a proceeding conducted under this chapter.

(5) The list of affected parties that is certified as the true representation of the mailing list of a referendum shall be used to determine assent as provided in this chapter.

(6) The director shall provide the commodity board the list of affected and interested parties once a marketing order or agreement is adopted and a commodity board is established as provided in this chapter.

NEW SECTION. Sec. 18. A new section is added to chapter 15.65 RCW to read as follows:

(1) Pursuant to RCW 42.17.31907, certain agricultural business records, commodity board records, and department of agriculture records relating to commodity boards and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or a commodity board for the purpose of administering this chapter or a marketing order or agreement may be shared between the department and the applicable commodity board. They may also be used, if required, in any suit or administrative hearing involving this chapter or a marketing order or agreement.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of a number of persons subject to any marketing order or agreement as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or a commodity board of the name of any person violating any marketing order or agreement and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 19. A new section is added to chapter 15.65 RCW to read as follows:

(1) Upon completion of any vote, referendum, or nomination and elections, the department shall tally the results of the vote and provide the results to affected parties.

(2) If an affected party disputes the results of a vote, that affected party, within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount.

(3) Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

Sec. 20. RCW 15.65.220 and 1961 c 256 s 22 are each amended to read as follows:

(1) Every marketing agreement and order shall provide for the establishment of a commodity board of not less than five nor more than thirteen members and shall specify the exact number thereof and all details as to (a) qualification, (b) nomination, (c) election or appointment by the director, (d) term of office, and (e) powers, duties, and all other matters pertaining to such board.

(2) The members of the board shall be producers or handlers or both in such proportion as the director shall specify in the marketing agreement or order, but in any marketing order or agreement the number of handlers on the board shall not exceed the number of producers thereon. The marketing order or agreement may provide that a majority of the board be appointed by the director, but in any event, no less than one-third of the board members shall be elected by the affected producers.

(3) In the event that the marketing order or agreement provides that a majority of the commodity board be appointed by the director, the marketing order or agreement shall incorporate either the provisions of section 24 or 25 of this act for board member selection.

(4) The director shall appoint to every ~~((such))~~ board one ~~((person))~~ member who ~~((is neither a producer nor a handler to))~~ represents the ~~((department and the public generally))~~ director. The director shall be a voting member of each commodity board.

Sec. 21. RCW 15.65.230 and 2001 c 315 s 5 are each amended to read as follows:

A producer member of each commodity board must be a practical producer of the affected commodity and must be a citizen, resident of this state, and over the age of eighteen years. Each producer board member must be and have been actually engaged in producing such a commodity within the state of Washington for a period of five years and have, during that period, derived a substantial portion

of his or her income therefrom and not be engaged in business, directly or indirectly, as a handler or other dealer. A handler member of each board must be a practical handler of the affected commodity and must be a citizen, resident of this state, and over the age of ~~((twenty-five))~~ eighteen years. Each handler board member must be and have been, either individually or as an officer or employee of a corporation, firm, partnership, association, or cooperative, actually engaged in handling such a commodity within the state of Washington for a period of five years and have, during that period, derived a substantial portion of his or her income therefrom. The qualification of a member of the board as set forth in this section must continue during the term of office.

Sec. 22. RCW 15.65.235 and 1971 c 25 s 1 are each amended to read as follows:

Whenever any commodity board is formed under the provisions of this chapter and it only affects producers and producer-handlers, then such producer-handlers shall be considered to be acting only as producers for purpose of ~~((election and))~~ membership on a commodity board: **PROVIDED**, That this section shall not apply to a commodity board which only affects producers and producer-handlers of essential oils.

Sec. 23. RCW 15.65.240 and 1961 c 256 s 24 are each amended to read as follows:

The term of office of board members shall be three years, and one-third as nearly as may be shall be elected or appointed every year: **PROVIDED**, That at the inception of any agreement or order the entire board shall be elected or appointed one-third for a term of one year, one-third for a term of two years and one-third for a term of three years to the end that memberships on such board shall be on a rotating basis. In the event an order or agreement provides that both producers and handlers shall be members of such board the terms of each type of member shall be so arranged that one-third of the handler members as nearly as may be and one-third of the producer members as nearly as may be shall be elected or appointed each year.

Any marketing agreement or order may provide for election or appointment of board members by districts, in which case district lines and the number of board members to be elected or appointed from each district shall be specified in such agreement or order and upon such basis as the director finds to be fair and equitable and reasonably adapted to effectuate the declared policies of this chapter.

NEW SECTION. **Sec. 24.** A new section is added to chapter 15.65 RCW to read as follows:

(1) This section or section 25 of this act applies when the director appoints a majority of the board positions as set forth under RCW 15.65.220(3).

(2) Candidates for director-appointed board positions on a commodity board shall be nominated under RCW 15.65.250.

(3) The director shall cause an advisory vote to be held for the director-appointed positions. Not less than ten days in advance of the vote, advisory ballots shall be mailed to all producers or handlers entitled to vote, if their names appear upon the list of affected parties or affected producers or handlers, whichever is applicable. Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of the vote. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the board. In the event there are only two candidates nominated for a board position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) The candidates whose names are forwarded to the director for potential appointment shall submit to the director a letter stating why he or she wishes to be appointed to the board. The director may select either person for the position.

NEW SECTION. Sec. 25. A new section is added to chapter 15.65 RCW to read as follows:

(1) This section or section 24 of this act applies when the director appoints a majority of the board positions as set forth under RCW 15.65.220(3).

(2) Candidates for director-appointed board positions on a commodity board shall be nominated under RCW 15.65.250.

(3) The director shall cause an advisory vote to be held for the director-appointed positions. Not less than ten days in advance of the vote, advisory ballots shall be mailed to all producers or handlers entitled to vote, if their names appear upon the list of affected parties or affected producers or handlers, whichever is applicable. Notice of every advisory vote for board membership shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of the vote. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The name of the candidate receiving the most votes in the advisory vote shall be forwarded to the director for appointment to the commodity board.

(4) The director shall appoint the candidate receiving the most votes in an advisory ballot unless the candidate fails to meet the qualifications of commodity board members under this chapter and the marketing order. In the event the director rejects the candidate receiving the most votes, the position is vacant and shall be filled under RCW 15.65.270(2).

Sec. 26. RCW 15.65.250 and 1987 c 393 s 7 are each amended to read as follows:

For the purpose of nominating candidates (~~((to be voted upon))~~) for (~~((election to such))~~) board memberships, the director shall call separate meetings of the affected producers and handlers within the affected area and in case elections shall be by districts (~~((he))~~) the director shall call separate meetings for each district.

However, at the inception any marketing agreement or order nominations may be at the issuance hearing. Nomination meetings shall be called annually and at least thirty days in advance of the date set for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all on the list of affected parties or affected producers and/or handlers (~~(according to the list thereof maintained by the director pursuant to RCW 15.65.200)~~), whichever is applicable. However, if the agreement or order provides for election by districts such written notice need be given only to the producers or handlers residing in or whose principal place of business is within such district. Nonreceipt of notice by any interested person shall not invalidate proceedings at such meetings. Any qualified person may be nominated orally for membership upon such board at the said meetings. Nominations may also be made within five days after any such meeting by written petition filed with the director signed by not less than five producers or handlers, as the case may be, entitled to have participated in said meeting.

If the board moves and the director approves that the nomination meeting procedure be deleted, the director shall give notice of the vacancy by mail to all affected producers or handlers. The notice shall call for nominations in accordance with the marketing order or agreement and shall give the final date for filing nominations which shall not be less than twenty days after the notice was mailed.

Not more than one board member may be part of the same "person" as defined by this chapter. When only one nominee is nominated for any position on the board, the director shall (~~(deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly)~~) determine whether the nominee meets the qualifications for the position and, if so, the director shall declare the nominee elected or appoint the nominee to the position.

Sec. 27. RCW 15.65.260 and 1985 c 261 s 10 are each amended to read as follows:

(1) The elected members of every (~~(such)~~) commodity board shall be elected by secret mail ballot under the supervision of the director. Elected producer members of (~~(such)~~) the board shall be elected by a majority of the votes cast by the affected producers within the affected area, but if the marketing order or agreement provides for districts such producer members of the board shall be elected by a majority of the votes cast by the affected producers in the respective districts. Each affected producer within the affected area shall be entitled to one vote. Elected handler members of the board shall be elected by a majority of the votes cast by the affected handlers within the affected area, but if the marketing order or agreement provides for districts such handler members of the board shall be elected by a majority of the votes cast by the affected handlers in the respective districts. Each affected handler within the affected area shall be entitled to one vote.

If a nominee does not receive a majority of the votes on the first ballot a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

(2) Notice of every election for board membership shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of such election. Not less than ten days prior to every election for board membership, the director shall mail a ballot of the candidates to each producer and handler entitled to vote whose name appears upon the list (~~(thereof compiled and maintained by the director in accordance with RCW 15.65.200)~~) of affected parties or affected producers or handlers, whichever is applicable. Any other producer or handler entitled to vote may obtain a ballot by application to the director upon establishing his or her qualifications. Nonreceipt of a ballot by any person entitled to vote shall not invalidate the election of any board member.

Sec. 28. RCW 15.65.270 and 2001 2nd sp.s. c 6 s 1 are each amended to read as follows:

(1) In the event of a vacancy in an elected position on the board, the remaining board members shall select a qualified person to fill the (~~(unexpired term. A majority of the voting members of the board shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.))~~ vacant position for the remainder of the current term or as provided in the marketing order or agreement.

(2) In the event of a vacancy on the board in a position appointed by the director, the remaining board members shall recommend to the director a qualified person for appointment to the vacant position. The director shall appoint the person recommended by the board unless the person fails to meet the qualifications of board members under this chapter and the marketing order or agreement.

(3) A majority of the voting members of the board shall constitute a quorum for the transaction of all business and the carrying out of all duties of the board.

(4) Each member of the board shall be compensated in accordance with RCW 43.03.230. Members and employees of the board may be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter, as defined under the commodity board's marketing order or agreement. Otherwise, if not defined or referenced in the marketing order or agreement, reimbursement for travel expenses shall be at the rates allowed state employees in accordance with RCW 43.03.050 and 43.03.060.

Sec. 29. RCW 15.65.280 and 2001 c 315 s 6 are each amended to read as follows:

The powers and duties of the board shall be:

- (1) To elect a chairman and such other officers as it deems advisable;
- (2) To advise and counsel the director with respect to the administration and conduct of such marketing agreement or order;

(3) To recommend to the director administrative rules(~~(, regulations)~~) and orders and amendments thereto for the exercise of his or her powers in connection with such agreement or order;

(4) To advise the director upon any and all assessments provided pursuant to the terms of such agreement or order and upon the collection, deposit, withdrawal, disbursement and paying out of all moneys;

(5) To assist the director in the collection of such necessary information and data as the director may deem necessary in the proper administration of this chapter;

(6) To administer the order or agreement as its administrative board if the director designates it so to do in such order or agreement;

(7) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in the board's marketing order or agreement;

(8) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes provided in the board's marketing order or agreement. Personal service contracts must comply with chapter 39.29 RCW;

(9) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in the board's marketing order or agreement;

(10) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of a board. The retention of a private attorney is subject to review by the office of the attorney general;

(11) To engage in appropriate fund-raising activities for the purpose of supporting activities of the board authorized by the marketing order or agreement;

(12) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of an affected commodity;

(13) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of affected commodities including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission; (~~and~~)

(14) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the marketing order or agreement, and data on the value of each producer's production for a minimum three-year period;

(15) To maintain a list of the names and addresses of persons who handle the affected commodity within the affected area and data on the amount and value of the commodity handled for a minimum three-year period by each person; and

(16) To perform such other duties as the director may prescribe in the marketing agreement or order.

Any agreement or order under which the commodity board administers the order or agreement shall (if so requested by the affected producers within the affected area in the proposal or promulgation hearing) contain provisions whereby the director reserves the power to approve or disapprove every order, rule or directive issued by the board, in which event such approval or disapproval shall be based on whether or not the director believes the board's action has been carried out in conformance with the purposes of this chapter.

NEW SECTION. Sec. 30. A new section is added to chapter 15.65 RCW to read as follows:

(1) Each commodity board shall prepare a list of all affected producers from any information available from the department, producers, producer associations or organizations, or handlers of the affected commodity. This list shall contain the names and addresses of all affected persons who produce the affected commodity and the amount, by unit, of the affected commodity produced during at least the past three years.

(2) Each commodity board shall prepare a list of all persons who handle the affected commodity and the amount of the commodity handled by each person during at least the past three years.

(3) It is the responsibility of all affected parties to ensure that their correct address is filed with the commodity board. It is also the responsibility of affected parties to submit production data and handling data to the commodity board as prescribed by the board's marketing order or agreement.

(4) Any qualified person may, at any time, have his or her name placed upon any list for which he or she qualifies by delivering or mailing the information to the commodity board. The lists shall be corrected and brought up-to-date in accordance with evidence and information provided to the commodity board.

(5) At the director's request, the commodity board shall provide the director a list of affected producers or handlers that is certified by the commodity board to be complete according to the commodity board's records. The list shall contain all information required by the director to conduct a referendum or board member election or selection under this chapter and the marketing order or agreement.

(6) For all purposes of giving notice, holding referenda, and electing or selecting members of a commodity board, the applicable list corrected up to the day preceding the date the list is certified by the commodity board and mailed to the director is deemed to be the list of all affected producers or affected handlers, as applicable, entitled to notice or to vote. Inadvertent failure to notify an affected producer or handler does not invalidate a proceeding conducted under this chapter.

NEW SECTION. Sec. 31. A new section is added to chapter 15.65 RCW to read as follows:

Agricultural commodity boards shall adopt rules governing promotional hosting expenditures by commodity board employees, agents, or board members under RCW 15.04.200.

Sec. 32. RCW 15.65.375 and 1988 c 54 s 1 are each amended 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~~((+))~~ (30) 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.

Sec. 33. RCW 15.65.380 and 1961 c 256 s 38 are each amended to read as follows:

Any marketing agreement or order may contain any other, further, and different provisions which are incidental to and not inconsistent with this chapter and which the director finds to be needed and reasonably adapted to effectuate the declared policies of this chapter. ~~((Such))~~ The provisions shall set forth the detailed application of this chapter to the affected agricultural commodity. ~~((The director or his designee shall have the power to make rules and regulations of a technical or administrative nature under this chapter and/or under any agreement or order issued pursuant to this chapter.))~~

Sec. 34. RCW 15.65.430 and 1961 c 256 s 43 are each amended to read as follows:

Any moneys collected or received by the director or his or her designee pursuant to the provisions of any marketing agreement or order during or with respect to any season or year may be refunded on a pro rata basis at the close of such season or year or at the close of such longer period as the director determines to be reasonably adapted to effectuate the declared policies of this chapter and the purposes of such marketing agreement or order, to all persons from whom such moneys were collected or received, or may be carried over into and used with respect to the next succeeding season, year or period whenever the director or ~~((his))~~ a designee finds that the same will tend to effectuate such policies and purposes. ~~((Upon the termination of any marketing agreement or order, any and all moneys remaining, and not required to defray the expenses or repay the obligations incurred and undertaken pursuant to such agreement or order, shall be returned by the director upon a pro rata basis to all persons from whom such moneys were collected or received. However, if the director finds that the amounts so returnable are so small as to make impractical the computation and remitting of such pro rata refund to such persons, the director may use such moneys to defray expenses incurred by him in the formulation, issuance, administration or enforcement of any subsequent marketing agreement or order for such commodity. Thereafter, if there are any such moneys remaining which have not been used by the director as hereinabove provided, the same shall be withdrawn from the approved depository and paid into the state treasury as unclaimed trust moneys.))~~

Sec. 35. RCW 15.65.450 and 1961 c 256 s 45 are each amended to read as follows:

Prior to the issuance of any marketing agreement or order, the director may require the applicants therefor to deposit with him or her such amount of money as the director may deem necessary to defray the expenses of preparing and making effective such agreement or order. ~~((The director or his designee may reimburse the applicant from any moneys received by him under such agreement or order for any moneys so deposited by such applicant and/or for any necessary expenses incurred by such applicant in preparing and obtaining approval of such marketing agreement or order upon receipt of a verified statement of such expense approved by the director or his designee.))~~

(1) A commodity board shall reimburse the department for expenses incurred by the department when a commodity board petitions the director to amend or terminate a marketing order or agreement and for other services provided by the department under this chapter. The department shall provide to a commodity board an estimate of expenses that may be incurred to amend or terminate a marketing order or agreement prior to any services taking place.

(2) Petitioners who are not a majority of a commodity board, and who file a petition with the director to issue, amend, or terminate a marketing order or agreement, shall deposit funds with the director to pay for expenses incurred by the department, under rules adopted by the director.

(3) A commodity board shall reimburse petitioners the amount paid to the department under the following circumstances:

(a) If the petition is to issue a marketing order or agreement, the commodity board shall reimburse the petitioners the amount expended by the department when funds become available after establishment of the commodity board; or

(b) If the petition is to amend or terminate a marketing order or agreement and the proposal is assented to by the affected parties or affected producers, the commodity board shall reimburse the petitioners within thirty days of the referendum.

(4) If for any reason a proceeding is discontinued, the commodity board or petitioners, whichever is applicable, shall only reimburse the department for expenses incurred by the department up until the time the proceeding is discontinued.

Sec. 36. RCW 15.65.570 and 1961 c 256 s 57 are each amended to read as follows:

(1) All proceedings ~~((held by the director for the promulgation of any marketing agreement or order and the amendment, modification, or dissolution thereof and all proceedings concerning the promulgation of any rules or regulations or the amendment or modification thereof and appeals therefrom))~~ conducted under this chapter shall be subject to the provisions of chapter 34.05 RCW ~~((as enacted or hereafter amended))~~ unless otherwise provided for in this chapter.

(2) Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory fairness act, and RCW 43.135.055 when the adoption of the rules is determined by a referendum vote of the affected parties.

NEW SECTION. **Sec. 37.** The following acts or parts of acts are each repealed:

(1) RCW 15.65.030 (Declaration of purpose and police power) and 1961 c 256 s 3;

(2) RCW 15.65.080 (Hearings public—Oaths—Record—Administrative law judge, powers) and 1981 c 67 s 18 & 1961 c 256 s 8;

(3) RCW 15.65.460 (Marketing act revolving fund—Composition) and 1961 c 256 s 46; and

(4) RCW 15.65.405 (Annual assessment in excess of the fiscal growth factor under chapter 43.135 RCW—Hop commodity board—Mint commodity board) and 1995 c 109 s 1.

NEW SECTION. **Sec. 38.** A new section is added to chapter 15.66 RCW to read as follows:

The history, economy, culture, and the future of Washington state to a large degree all involve agriculture. In order to develop and promote Washington's agricultural products as part of the existing comprehensive scheme to regulate agricultural commodities, the legislature declares:

(1) That the marketing of agricultural products within this state is in the public interest. It is vital to the continued economic well-being of the citizens of this state and their general welfare that its agricultural commodities be properly promoted by (a) enabling producers of agricultural commodities to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the commodities they produce; and (b) working towards stabilizing the agricultural industry by increasing consumption of agricultural commodities within the state, the nation, and internationally;

(2) That farmers and ranchers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the agricultural producer's ability to compete in local, domestic, and foreign markets;

(3) That it is now in the overriding public interest that support for the agricultural industry be clearly expressed, that adequate protection be given to agricultural commodities, uses, activities, and operations, and that each agricultural commodity be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agricultural commodities;

(b) Increase the sale and use of Washington state's agricultural commodities in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's agricultural commodities;

(d) Increase the knowledge of the health-giving qualities and dietetic value of Washington state's agricultural commodities and products; and

(e) Support and engage in programs or activities that benefit the planting, production, harvesting, handling, processing, marketing, and uses of agricultural commodities produced in Washington state;

(4) That the director seek to enhance, protect, and perpetuate the ability of the private sector to produce food and fiber, and seek to maintain the economic well-being of the agricultural industry in Washington state consistent with its regulatory activities and responsibilities;

(5) That the director is hereby authorized to implement, administer, and enforce this chapter through the adoption of marketing orders that establish commodity commissions; and

(6) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

Sec. 39. RCW 15.66.010 and 1993 c 80 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him or her concerning some matter under this chapter.

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

(3) "Marketing order" means an order (~~issued~~) adopted by rule by the director that establishes a commodity commission for an agricultural commodity pursuant to this chapter.

(4) "Agricultural commodity" means any of the following commodities or products: Llamas, alpacas, or any other animal or any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product, including, but not limited to, products qualifying as organic food products under chapter 15.86 RCW and private sector cultured aquatic products as defined in RCW 15.85.020 and other fish and fish products, within its natural or processed state, including beehives containing bees and honey and Christmas trees but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. "To produce" means to act as a producer. For the purposes of (~~RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended~~) this chapter,

"producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer ~~((of an affected commodity))~~ who is subject to a marketing order.

(7) "Affected commodity" means ~~((any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060))~~ the agricultural commodity that is specified in the marketing order.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77, 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawful established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, limited liability company, trust, association, partnership, society, or any other organization of individuals or any unit or agency of local, state, or federal government.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his or her product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product.

(14) "Affected handler" means any handler of an affected commodity.

(15) "Affected parties" means any producer, affected producer, handler, or commodity commission member.

(16) "Assessment" means the monetary amount established in a marketing order that is to be paid by each affected producer to a commission in accordance with the schedule established in the marketing order.

(17) "Mail" or "send," for purposes of any notice relating to rule making, referenda, or elections, means regular mail or electronic distribution, as provided in RCW 34.05.260 for rule making. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

(18) "Handler" means any person who acts, either as principal, agent, or otherwise, in the processing, selling, marketing, or distributing of an agricultural commodity that is not produced by the handler. "Handler" does not include a common carrier used to transport an agricultural commodity. "To handle" means to act as a handler.

(19) "List of affected parties" means a list containing the names and mailing addresses of affected parties. This list must contain the names and addresses of all affected parties and, if requested by the director, the amount, by unit, of the affected commodity produced during a designated period under this chapter.

(20) "List of affected producers" means a list containing the names and mailing addresses of affected producers. This list must contain the names and addresses of all affected producers and, if requested by the director, the amount, by unit, of the affected commodity produced during a designated period under this chapter.

(21) "List of affected handlers" means a list containing the names and addresses of affected handlers. This list must contain the names and addresses of all affected handlers and, if requested by the director, the amount, by unit, of the affected commodity handled during a designated period under this chapter.

(22) "Percent by numbers" means the percent of those persons on the list of affected parties or affected producers.

(23) "Referendum" means a vote by the affected parties or affected producers which is conducted by secret ballot.

(24) "Rule-making proceedings" means rule making under chapter 34.05 RCW.

(25) "Vacancy" means that a commission member leaves or is removed from a position on the commission prior to the end of a term, or a nomination process for the beginning of a term concludes with no candidates for a position.

(26) "Volume of production" means the percent of the average volume of production of the affected commodity of those on the list of affected parties or affected producers for a production period. For the purposes of this chapter, a production period is a minimum three-year period or as specified in the marketing order.

Sec. 40. RCW 15.66.030 and 2001 c 315 s 1 are each amended to read as follows:

Marketing orders may be made for any one or more of the following purposes:

- (1) To establish plans and conduct programs for advertising and sales promotion, to maintain present markets, or to create new or larger markets for any agricultural commodity grown in the state of Washington;
- (2) To provide for carrying on research studies to find more efficient methods of production, irrigation, processing, transportation, handling, and marketing of any agricultural commodity;
- (3) To provide for improving standards and grades by defining, establishing, and providing labeling requirements with respect to the same;
- (4) To investigate and take necessary action to prevent unfair trade practices;
- (5) To provide information or communicate on matters pertaining to the production, irrigation, processing, transportation, marketing, or uses of an agricultural commodity produced in Washington state to any elected official or officer or employee of any agency;
- (6) To provide marketing information and services for producers of an agricultural commodity;
- (7) To provide information and services for meeting resource conservation objectives of producers of an agricultural commodity;
- (8) To engage in cooperative efforts in the domestic or foreign marketing of food products of an agricultural commodity; and
- (9) To provide for commodity-related education and training.

NEW SECTION. Sec. 41. A new section is added to chapter 15.66 RCW to read as follows:

This chapter and the rules adopted under it are only one aspect of the comprehensively regulated agricultural industry.

(1) Other laws applicable to agricultural commodities include the following chapters and the rules adopted thereunder:

Chapter 15.08 RCW Horticultural pests and diseases;

Chapter 15.13 RCW Horticultural plants and facilities—Inspection and licensing;

Chapter 15.14 RCW Planting stock;

Chapter 15.15 RCW Certified seed potatoes;

Chapter 15.17 RCW Standards of grades and packs;

Chapter 15.19 RCW Certification and inspection of ginseng;

Chapter 15.30 RCW Controlled atmosphere storage of fruits and vegetables;

Chapter 15.49 RCW Seeds;

Chapter 15.53 RCW Commercial feed;

Chapter 15.54 RCW Fertilizers, minerals, and limes;

Chapter 15.58 RCW Washington pesticide control act;

Chapter 15.60 RCW Apiaries;

Chapter 15.64 RCW Farm marketing;

Chapter 15.83 RCW Agricultural marketing and fair practices;

Chapter 15.85 RCW Aquaculture marketing;

Chapter 15.86 RCW Organic food products;

Chapter 15.92 RCW Center for sustaining agriculture and natural resources;
 Chapter 17.24 RCW Insect pests and plant diseases;
 Chapter 19.94 RCW Weights and measures;
 Chapter 20.01 RCW Agricultural products—Commission merchants, dealers,
 brokers, buyers, agents;
 Chapter 22.09 RCW Agricultural commodities;
 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including provisions
 of 21 C.F.R. relating to the general manufacturing practices, food labeling, food
 standards, food additives, and pesticide tolerances;
 Chapter 69.07 RCW Washington food processing act;
 Chapter 69.25 RCW Washington wholesome eggs and egg products act;
 Chapter 69.28 RCW Honey;
 7 U.S.C., section 136, Federal Insecticide, Fungicide, and Rodenticide Act.

(2) In addition to the laws and regulations listed in subsection (1) of this
 section that apply to the agricultural industry as a whole, the potato industry is
 regulated by or must comply with the following additional laws and the rules or
 regulations adopted thereunder:

- (a) 7 C.F.R., Part 51, United States standards for grades of potatoes;
- (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes grown in
 Washington;

- (c) 7 C.F.R., Part 1207, Potato research and promotion plan.

(3) In addition to the laws and regulations listed in subsection (1) of this
 section that apply to the agricultural industry as a whole, the wheat and barley
 industries are regulated by or must comply with the following additional laws and
 the rules adopted thereunder:

- (a) 7 U.S.C., section 1621, Agricultural Marketing Act;
- (b) Chapter 70.94 RCW, Washington clean air act, agricultural burning.

(4) In addition to the laws and regulations listed in subsection (1) of this
 section that apply to the agricultural industry as a whole, the poultry industry is
 regulated by or must comply with the following additional laws and the rules
 adopted thereunder:

- (a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;
- (b) 21 U.S.C., chapter 9, Packers and stockyards;
- (c) 7 U.S.C., section 1621, Agricultural Marketing Act;
- (d) Washington fryer commission labeling standards.

Sec. 42. RCW 15.66.050 and 1961 c 11 s 15.66.050 are each amended to read
 as follows:

(1) Petitions for issuance, amendment or termination of a marketing order
 shall be signed by not less than five percent or one hundred of the producers
 alleged to be affected, whichever is less, and shall be filed with the director.
~~((Such petition shall be accompanied by a filing fee of one hundred dollars payable
 to the state treasurer, and shall designate some person as attorney-in-fact for the
 purpose of this section. Upon receipt of such a petition, the director shall prepare~~

~~a budget estimate for handling such petition which shall include the cost of the preparation of the estimate, the cost of the hearings and the cost of the proposed referendum. The petitioners, within thirty days after receipt of the budget estimate by their attorney-in-fact shall remit to the director the difference between the filing fee of one hundred dollars already paid and the total budget estimate. If the petitioners fail to remit the difference, or if for any other reason the proceedings for the issuance, amendment or termination of the marketing order are discontinued, the filing fee, including any additional amount paid in accordance with such budget estimates shall not be refunded. If the petition results, after proper proceedings, in the issuance, amendment, or termination of a marketing order, said petitioners shall be reimbursed for the amount paid for said total filing fee out of funds of the commodity commission as they become available.))~~ A petition for amendment or termination of a marketing order may be submitted to the director by majority vote of a commission.

(2) A commission shall reimburse the department for expenses incurred by the department when a commodity commission petitions the director to amend or terminate a marketing order and for other services provided by the department under this chapter. The department shall provide to a commodity commission an estimate of expenses that may be incurred to amend or terminate a marketing order prior to any services taking place.

(3) Petitioners who are not a majority of a commission, and who file a petition with the director to issue, amend, or terminate a marketing order, shall deposit funds with the director to pay for expenses incurred by the department, under rules adopted by the director.

(4) A commission shall reimburse petitioners the amount paid to the department under the following circumstances:

(a) If the petition is to issue a marketing order, the commission shall reimburse the petitioners the amount expended by the department when funds become available after establishment of the commission; or

(b) If the petition is to amend or terminate a marketing order, the commission shall reimburse the petitioners within thirty days of the referendum if the proposal is assented to by the affected producers.

(5) If for any reason a proceeding is discontinued, the commission or petitioners, whichever is applicable, shall reimburse the department only for expenses incurred by the department up until the time the proceeding is discontinued.

NEW SECTION. Sec. 43. A new section is added to chapter 15.66 RCW to read as follows:

(1) All rule-making proceedings conducted under this chapter shall be in accordance with chapter 34.05 RCW.

(2) Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory fairness act,

and RCW 43.135.055 when adoption of the rule is determined by a referendum vote of the affected parties.

(3) The director may adopt amendments to marketing orders without conducting a referendum if the amendments are adopted under the following criteria:

(a) The proposed amendments relate only to internal administration of a marketing order and are not subject to violation by a person;

(b) The proposed amendments adopt or incorporate by reference without material change federal statutes or regulations, Washington state statutes, or rules of other Washington state agencies, if the material adopted or incorporated regulates the same activities as are authorized under the marketing order;

(c) The proposed amendments only correct typographical errors, make address or name changes, or clarify language of a rule without changing the marketing order;

(d) The content of the proposed amendments is explicitly and specifically dictated by statute.

A marketing order shall not be amended without a referendum to provide that a majority of the commodity commission members be appointed by the director.

NEW SECTION. **Sec. 44.** A new section is added to chapter 15.66 RCW to read as follows:

The director may adopt rules necessary to carry out the director's duties and responsibilities under this chapter including:

(1) The issuance, amendment, suspension, or termination of marketing orders;

(2) Procedural, technical, or administrative rules which may address and include, but are not limited to:

(a) The submission of a petition to issue, amend, or terminate a marketing order under this chapter;

(b) Nominations conducted under this chapter;

(c) Elections of commission members or referenda conducted under this chapter; and

(d) Actions of the director upon a petition to issue, amend, or terminate a marketing order;

(3) Rules that provide for a method to fund:

(a) The costs of staff support for all commodity boards and commissions in accordance with section 78 of this act if the position is not directly funded by the legislature; and

(b) The actual costs related to the specific activity undertaken on behalf of an individual commodity board or commission.

Sec. 45. RCW 15.66.060 and 1975 1st ex.s. c 7 s 7 are each amended to read as follows:

(1) Upon receipt of a petition for the issuance(~~(, amendment, or termination)~~) of a marketing order, the director shall establish a list of (~~(producers)~~) affected parties of the agricultural commodity affected (~~(or make any such existing list~~

~~current~~). In establishing ~~((or making current such))~~ a list of ~~((producers))~~ affected parties and their individual production, the director shall publish a notice to producers of the commodity to be affected requiring them to file with the director a report showing the producer's name, mailing address, and the yearly average quantity of the affected commodity produced by him or her in the three years preceding the date of the notice or in such lesser time as the producer has produced the commodity in question. ~~((Such))~~ Information as to production may also be accepted from other valid sources if readily available. ~~((The notice shall be published once a week for four consecutive weeks in such newspaper or newspapers, including a newspaper or newspapers of general circulation within the affected areas, as the director may prescribe, and shall be mailed to all affected producers on record with the director. All reports shall be filed with the director within twenty days from the last date of publication of the notice or within thirty days after the mailing of the notice to affected producers, whichever is the later. The director shall keep such lists at all times as current as possible and may require information from affected producers at various times in accordance with rules and regulations prescribed by the director. PROVIDED, That any commission established under the provisions of this chapter may at its discretion prior to any election for any purpose by such commission carry out the above stated mandate to the director for establishing a list of producers and their individual production, and supply the director with a current list of all producers subject to the provisions of the marketing order under which it was formed:~~

~~— Such producer list shall be final and conclusive in making determinations relative to the assent by producers upon the issuance, amendment or termination of a marketing order and in elections under the provisions of this chapter.~~

~~— The director shall then notify affected producers, so listed, by mail that the public hearing affording opportunity for them to be heard upon the proposed issuance, amendment, or termination of the marketing order will be heard at the time and place stated in the notice. Such notice of the hearing shall be given not less than ten days nor more than sixty days prior to the hearing.))~~ Notice of a proposed marketing order issuance shall be as provided for in RCW 15.66.070.

(2) The director shall use the list of affected parties for the purpose of notice, referendum proceedings, and electing or selecting members of the commission in accordance with this chapter and rules adopted under this chapter.

(3) An affected party may at any time file his or her name and mailing address with the director. A list of affected parties may be brought up-to-date by the director up to the day preceding a mailing of a notice or ballot under this chapter and that list is deemed the list of affected parties entitled to vote.

(4) The list of affected parties shall be kept in the rule-making file by the director. The list shall be certified as a true representation of the referendum mailing list. Inadvertent failure to notify an affected party does not invalidate a proceeding conducted under this chapter.

(5) The list of affected parties that is certified as the true representation of the mailing list of a referendum shall be used to determine assent as provided in this chapter.

(6) The director shall provide the commodity commission the list of affected and interested parties once a marketing order is adopted and a commodity commission is established as provided in this chapter.

Sec. 46. RCW 15.66.070 and 1961 c 11 s 15.66.070 are each amended to read as follows:

(1) Notice of a public hearing to issue, amend, or terminate a marketing order shall be published once a week for four consecutive weeks in a newspaper or newspapers, including a newspaper or newspapers of general circulation within the affected areas, as the director may prescribe, and shall be mailed to all affected parties or affected producers. The director shall mail notice to all affected parties or affected producers, as applicable, who may be directly affected by the proposal and whose names and addresses appear on the list compiled under this chapter.

(2) At ~~((the))~~ a public hearing the director shall receive ~~((evidence and))~~ testimony offered in support of, or opposition to, the proposed issuance of, amendment to, or termination of a marketing order and concerning the terms, conditions, scope, and area thereof. Such hearing shall be public and all testimony shall be received under oath. A full and complete record of all proceedings at such hearings shall be made and maintained on file in the office of the director, which file shall be open to public inspection. The director shall base ~~((his))~~ any findings upon the testimony ~~((and evidence))~~ received at the hearing, together with any other relevant facts available ~~((to him))~~ from official publications of institutions of recognized standing. The director shall describe in ~~((his))~~ the findings such official publications upon which any finding is based.

~~((For such hearings and for any other hearings under this chapter.))~~ (3) The director shall have the power to subpoena witnesses and to issue subpoenas for the production of any books, records, or documents of any kind.

(4) The superior court of the county in which any hearing or proceeding may be had may compel the attendance of witnesses and the production of records, papers, books, accounts, documents and testimony as required by such subpoena. The director, in case of the refusal of any witness to attest or testify or produce any papers required by the subpoena, shall report to the superior court of the county in which the proceeding is pending by petition setting forth that due notice has been given of the time and place of attendance of ~~((said))~~ the witness or the production of ~~((said))~~ the papers and that the witness has been summoned in the manner prescribed in this chapter and that he or she has failed to attend or produce the papers required by the subpoena at the hearing, cause or proceeding specified in the subpoena, or has refused to answer questions propounded to him or her in the course of such hearing, cause, or proceeding, and shall ask an order of the court to compel a witness to appear and testify before the director. 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 or she has not responded to the subpoena. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was regularly issued, it 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~~) the order the witness shall be dealt with as for contempt of court.

Sec. 47. RCW 15.66.090 and 1975 1st ex.s. c 7 s 8 are each amended to read as follows:

After the issuance by the director of the final decision approving the issuance, amendment, or termination of a marketing order, the director shall determine by a referendum whether the affected parties or producers assent to the proposed action or not. The director shall conduct the referendum among the affected parties or producers based on the list as provided for in RCW 15.66.060, and the affected parties or producers shall be deemed to have assented to the proposed issuance or termination order if fifty-one percent or more by number reply to the referendum within the time specified by the director, and if, of those replying, sixty-five percent or more by number and fifty-one percent or more by volume assent to the proposed order. The producers shall be deemed to have assented to the proposed amendment order if sixty percent or more by number and sixty percent or more by volume of those replying assent to the proposed order. The determination by volume shall be made on the basis of volume as determined in the list of affected producers created under provisions of RCW 15.66.060, subject to rules and regulations of the director for such determination. The director shall consider the approval or disapproval of any cooperative marketing association authorized by its producer members to act for them in any such referendum, as being the approval or disapproval of the producers who are members of or stockholders in or under contract with such association of cooperative producers: PROVIDED, That the association shall first determine that a majority of the membership of the association authorize its action concerning the specific marketing order. If the requisite assent is given, the director shall promulgate the order and shall mail notices of the same to all affected producers.

NEW SECTION. Sec. 48. A new section is added to chapter 15.66 RCW to read as follows:

The director may, upon the request of a commodity commission and without compliance with RCW 15.66.070 through 15.66.090, suspend the commission's order or term or provision thereof for a period of not to exceed one year, if the director finds that the suspension will tend to effectuate the declared policy of this chapter. Any suspension of all, or substantially all, of a marketing order by the director is not effective until the end of the then current marketing season.

NEW SECTION. Sec. 49. A new section is added to chapter 15.66 RCW to read as follows:

The director is not required to hold a public hearing or a referendum more than once in any twelve-month period on petitions to issue, amend, or terminate a marketing order if any of the following circumstances are present:

- (1) The petition proposes to establish a marketing order for the same commodity;
- (2) The petition proposes the same or a similar amendment to a marketing order; or
- (3) The petition proposes to terminate the same marketing order.

NEW SECTION. Sec. 50. A new section is added to chapter 15.66 RCW to read as follows:

(1) Pursuant to RCW 42.17.31907, certain agricultural business records, commodity commission records, and department of agriculture records relating to commodity commissions and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or a commodity commission for the purpose of administering this act or a marketing order may be shared between the department and the applicable commodity commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of a number of persons subject to any marketing order as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or a commodity commission of the name of any person violating any marketing order and a statement of the manner of the violation by that person.

Sec. 51. RCW 15.66.110 and 2001 c 315 s 2 are each amended to read as follows:

(1) Every marketing order shall establish a commodity commission composed of not less than five nor more than thirteen members. In addition, the director shall be an ex officio member of each commodity commission unless otherwise specified in the marketing order. Commission members shall be citizens and residents of this state if required by the marketing order, and over the age of eighteen. Not more than one commission member may be part of the same "person" as defined by this chapter. The term of office of commission members shall be three years with the terms rotating so that one-third of the terms will commence as nearly as practicable each year. However, the first commission shall be selected, one-third for a term of one year, one-third for a term of two years, and one-third for a term of three years, as nearly as practicable. Except as provided in subsection (2) of this section, no less than two-thirds of the commission members shall be elected by the affected producers and such elected members shall all be affected producers. The remaining members shall be appointed by the commission

and shall be either affected producers, others active in matters relating to the affected commodity, or persons not so related.

(2) A marketing order may provide that a majority of the commission be appointed by the director, but in any event, no less than one-third of the commission members shall be elected by the affected producers.

(3) In the event that the marketing order provides that a majority of the commission be appointed by the director, the marketing order shall incorporate either the provisions of section 52 or 53 of this act for member selection.

NEW SECTION. Sec. 52. A new section is added to chapter 15.66 RCW to read as follows:

(1) This section or section 53 of this act applies when the director appoints a majority of the positions of the commission as set forth under RCW 15.66.110(3).

(2) Candidates for director-appointed positions on a commission shall be nominated under RCW 15.66.120(1).

(3) Not less than sixty days nor more than seventy-five days prior to the commencement of a commission member's term, the director shall cause an advisory vote to be held for the director-appointed positions. Advisory ballots shall be mailed to all affected producers and shall be returned to the director not less than thirty days prior to the commencement of the term. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The names of the two candidates receiving the most votes in the advisory vote shall be forwarded to the director for potential appointment to the commission. In the event there are only two candidates nominated for a position, an advisory vote may not be held and the candidates' names shall be forwarded to the director for potential appointment.

(4) The candidates whose names are forwarded to the director for potential appointment shall submit to the director a letter stating why he or she wishes to be appointed to the commission. The director may select either person for the position.

NEW SECTION. Sec. 53. A new section is added to chapter 15.66 RCW to read as follows:

(1) This section or section 52 of this act applies when the director appoints a majority of the positions on a commission as set forth under RCW 15.66.110(3).

(2) Candidates for director-appointed positions on a commission shall be nominated under RCW 15.66.120(1).

(3) Not less than sixty days nor more than seventy-five days prior to the commencement of a commission member's term, the director shall cause an advisory vote to be held for the director-appointed positions. Advisory ballots shall be mailed to all affected producers and shall be returned to the director not less than thirty days prior to the commencement of the term. The advisory ballot shall be conducted in a manner so that it is a secret ballot. The name of the candidate receiving the most votes in the advisory vote shall be forwarded to the director for appointment to the commission.

(4) The director shall appoint the candidate receiving the most votes in an advisory ballot unless the candidate fails to meet the qualifications of commission members under this chapter and the marketing order. In the event the director rejects the candidate receiving the most votes, the position is vacant and shall be filled under RCW 15.66.120(8).

Sec. 54. RCW 15.66.120 and 1975 1st ex.s. c 7 s 9 are each amended to read as follows:

(1) Not less than ninety days nor more than one hundred and five days prior to the beginning of each term of each elected commission member, ~~((the director shall give))~~ notice ~~((by mail))~~ shall be mailed to all affected producers ~~((of the vacancy and))~~ with a call for nominations in accordance with this section and ~~((with the))~~ provisions of the marketing order ~~((and shall give))~~. The notice ~~((of))~~ shall give the final date for filing nominations, which shall not be less than eighty days nor more than eighty-five days before the beginning of such term. ~~((Such))~~ The notice shall also advise that nominating petitions shall be signed by five persons qualified to vote for such candidates or, if the number of nominating signers is provided for in the marketing order, ~~((such))~~ then the number ~~((as such))~~ provided in the marketing order ~~((provides))~~.

(2) Not less than sixty days nor more than seventy-five days prior to the commencement of ~~((such))~~ a commission member term, the director shall ~~((submit by))~~ mail ballots to all affected producers ~~((, which))~~. Ballots shall be required to be returned to the director not less than thirty days prior to the commencement of ~~((such))~~ the term. ~~((Such))~~ The mail ballot shall be conducted in a manner so that it shall be a secret ballot. With respect to the first commission for a particular commodity, the director may call for nominations for commission members in the notice of ~~((his))~~ the director's decision following the hearing and the ballot may be submitted at the time the director's proposed order is submitted to the affected producers for their assent.

~~((Said elected))~~ (3) Commission members may be elected or appointed from various districts within the area covered by the marketing order if the order so provides, with the number of members from each district to be in accordance with the provisions of the marketing order.

(4) The members of the commission not elected by the affected producers shall be elected by a majority of the commission at a meeting of the commission within ninety days prior to expiration of the term ~~((but to fill nonelective vacancies caused by other reasons than the expiration of a term, the new member shall be elected by the commission at its first meeting after the occurrence of the vacancy)),~~ or appointed by the director under this chapter and the marketing order.

(5) When only one nominee is nominated for any position on the commission, the director shall ~~((deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly))~~ determine whether the nominee meets the qualifications of the position and, if so, the director shall declare the nominee elected or appoint the nominee to the position.

(6) In the event of a vacancy in an elected commission member position on a commodity commission, the remaining members shall select a qualified person to fill the vacant position for the remainder of the current term or as provided in the marketing order.

(7) In the event of a vacancy in an appointed member position on a commodity commission, the appointment of members shall be as specified in the marketing order.

(8) In the event of a vacancy in a director-appointed member position on a commodity commission, the remaining members shall recommend to the director a qualified person for appointment to the vacant position. The director shall appoint the person recommended by the commission unless the person fails to meet the qualifications of commission members under this chapter and the marketing order.

NEW SECTION. Sec. 55. A new section is added to chapter 15.66 RCW to read as follows:

(1) Upon completion of any vote, referendum, or nomination and elections, the department shall tally the results of the vote and provide the results to affected parties.

(2) If an affected party disputes the results of a vote, that affected party, within sixty days from the announced results, shall provide in writing a statement of why the vote is disputed and request a recount.

(3) Once the vote is tallied and distributed, all disputes are resolved, and all matters in a vote are finalized, the individual ballots may be destroyed.

Sec. 56. RCW 15.66.130 and 2001 2nd sp.s. c 6 s 2 are each amended to read as follows:

Each commodity commission shall hold such regular meetings as the marketing order may prescribe or that the commission by resolution may prescribe, together with such special meetings that may be called in accordance with provisions of its resolutions upon reasonable notice to all members thereof. A majority of the voting members shall constitute a quorum for the transaction of all business of the commission. ~~((In the event of a vacancy in an elected or appointed position on the commission, the remaining elected members of the commission shall select a qualified person to fill the unexpired term.))~~

Each member of the commission shall be compensated in accordance with RCW 43.03.230. Members and employees of the commission may be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter, as defined under the commodity ~~((board's))~~ commission's marketing order. Otherwise, if not defined or referenced in the marketing order, reimbursement for travel expenses shall be in accordance with RCW 43.03.050 and 43.03.060.

Sec. 57. RCW 15.66.140 and 2001 c 315 s 3 are each amended to read as follows:

Every ((marketing)) commodity commission shall have such powers and duties in accordance with provisions of this chapter as may be provided in the marketing order and shall have the following powers and duties:

(1) To elect a ((chairman)) chair and such other officers as determined advisable;

(2) To adopt, rescind and amend rules and regulations reasonably necessary for the administration and operation of the commission and the enforcement of its duties under the marketing order;

(3) To administer, enforce, direct and control the provisions of the marketing order and of this chapter relating thereto;

(4) To employ and discharge at its discretion such administrators and additional personnel, attorneys, advertising and research agencies and other persons and firms that it may deem appropriate and pay compensation to the same;

(5) To acquire personal property and purchase or lease office space and other necessary real property and transfer and convey the same;

(6) To institute and maintain in its own name any and all legal actions, including actions by injunction, mandatory injunction or civil recovery, or proceedings before administrative tribunals or other governmental authorities necessary to carry out the provisions of this chapter and of the marketing order;

(7) To keep accurate records of all its receipts and disbursements, which records shall be open to inspection and audit by the state auditor or private auditor designated by the state auditor at least every five years;

(8) Borrow money and incur indebtedness;

(9) Make necessary disbursements for routine operating expenses;

(10) To expend funds for commodity-related education, training, and leadership programs as each commission deems expedient;

(11) To work cooperatively with other local, state, and federal agencies; universities; and national organizations for the purposes provided in the commission's marketing order;

(12) To enter into contracts or interagency agreements with any private or public agency, whether federal, state, or local, to carry out the purposes provided in the commission's marketing order. Personal service contracts must comply with chapter 39.29 RCW;

(13) To accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes provided in the commission's marketing order;

(14) To enter into contracts or agreements for research in the production, irrigation, processing, transportation, marketing, use, or distribution of an affected commodity;

(15) To retain in emergent situations the services of private legal counsel to conduct legal actions on behalf of a commission. The retention of a private attorney is subject to review by the office of the attorney general;

(16) To engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by the marketing order;

(17) To participate in international, federal, state, and local hearings, meetings, and other proceedings relating to the production, irrigation, manufacture, regulation, transportation, distribution, sale, or use of affected commodities including activities authorized under RCW 42.17.190, including the reporting of those activities to the public disclosure commission; ~~((and))~~

(18) To maintain a list of the names and addresses of affected producers that may be compiled from information used to collect assessments under the provisions of the marketing order and data on the value of each producer's production for a minimum three-year period;

(19) To maintain a list of the names and addresses of persons who handle the affected commodity within the affected area and data on the amount and value of the commodity handled for a minimum three-year period by each person; and

(20) Such other powers and duties that are necessary to carry out the purposes of this chapter.

NEW SECTION. Sec. 58. A new section is added to chapter 15.66 RCW to read as follows:

(1) Each commodity commission shall prepare a list of all affected producers from any information available from the department, producers, producer associations, organizations, or handlers of the affected commodity. This list shall contain the names and addresses of all affected persons who produce the affected commodity and the amount, by unit, of the affected commodity produced during at least the past three years.

(2) Each commodity commission shall prepare a list of all persons who handle the affected commodity and the amount of the commodity handled by each person during at least the past three years.

(3) It is the responsibility of all affected parties to ensure that their correct address is filed with the commodity commission. It is also the responsibility of affected parties to submit production data and handling data to the commission as prescribed by the commission's marketing order.

(4) Any qualified person may, at any time, have his or her name placed upon any list for which he or she qualifies by delivering or mailing the information to the commission. The lists shall be corrected and brought up-to-date in accordance with evidence and information provided to the commission.

(5) At the director's request, the commodity commission shall provide the director a certified list of affected producers or affected handlers from the commodity commission records. The list shall contain all information required by the director to conduct a referendum or commission member elections under this chapter.

(6) For all purposes of giving notice and holding referenda on amendment or termination proposals, and for giving notice and electing or selecting members of a commission, the applicable list corrected up to the day preceding the date the list

is certified by the commission and mailed to the director is deemed to be the list of all affected producers or affected handlers, as applicable, entitled to notice or to vote. Inadvertent failure to notify an affected producer or handler does not invalidate a proceeding conducted under this chapter.

NEW SECTION. Sec. 59. A new section is added to chapter 15.66 RCW to read as follows:

Agricultural commodity commissions shall adopt rules governing promotional hosting expenditures by commodity commission employees, agents, or commission members under RCW 15.04.200.

NEW SECTION. Sec. 60. A new section is added to chapter 15.66 RCW to read as follows:

If after complying with the procedures outlined in this chapter and a referendum proposal to terminate a commodity commission is assented to, the affected commodity commission shall:

(1) Document the details of all measures undertaken to terminate the commodity commission and identify and document all closing costs;

(2) Contact the office of the state auditor and arrange for a final audit of the commission. Payment for the audit shall be from commission funds and identified in the budget for closing costs;

(3) Provide for the reimbursement to affected producers of moneys collected by assessment. Reimbursement shall be made to those considered affected producers over the previous three-year time frame on a pro rata basis and at a percent commensurate with their volume of production over the previous three-year period unless a different time period is specified in the marketing order. If the commodity commission finds that the amounts of moneys are so small as to make impractical the computation and remitting of the pro rata refund, the moneys shall be paid into the state treasury as unclaimed trust moneys; and

(4) Transfer all remaining files to the department for storage and archiving, as appropriate.

Sec. 61. RCW 15.66.180 and 1961 c 11 s 15.66.180 are each amended to read as follows:

All moneys which are collected or otherwise received pursuant to each marketing order created under this chapter shall be used solely by and for the commodity commission concerned and shall not be used for any other commission, nor the department except as otherwise provided in this chapter. Such moneys shall be deposited in a separate account or accounts in the name of the individual commission in any bank which is a state depository. All expenses and disbursements incurred and made pursuant to the provisions of any marketing order shall be paid from moneys collected and received pursuant to such order without the necessity of a specific legislative appropriation and all moneys deposited for the account of any order shall be paid from said account by check or voucher in such form and in such manner and upon the signature of such person as may be

prescribed by the commission. None of the provisions of RCW 43.01.050 shall be applicable to any such account or any moneys so received, collected or expended.

Sec. 62. RCW 15.66.185 and 1967 ex.s. c 54 s 2 are each amended to read as follows:

Any funds of any agricultural commodity commission may be invested in savings or time deposits in banks, trust companies, and mutual savings banks (~~((which))~~ that are doing business in (~~((this state))~~) the United States, up to the amount of insurance afforded such accounts by the Federal Deposit Insurance Corporation. This section shall apply to all funds which may be lawfully so invested, which in the judgment of any agricultural commodity commission are not required for immediate expenditure. The authority granted by this section is not exclusive and shall be construed to be cumulative and in addition to other authority provided by law for the investment of such funds.

Sec. 63. RCW 15.66.245 and 1988 c 54 s 2 are each amended 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(~~((+))~~) (30) 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.

Sec. 64. RCW 15.66.260 and 1969 c 66 s 2 are each amended to read as follows:

~~((All general administrative expenses of the director in carrying out the provisions of this chapter shall be borne by the state: PROVIDED, That))~~ The department shall be reimbursed for actual costs incurred in conducting nominations and elections for members of any commodity (~~((board))~~) commission established under the provisions of this chapter. Such reimbursement shall be made from the funds of the commission for which the nominations and elections were conducted by the director.

NEW SECTION. **Sec. 65.** RCW 15.66.020 (Declaration of purpose) and 1961 c 11 s 15.66.020 are each repealed.

Sec. 66. RCW 42.17.31907 and 2001 c 314 s 18 are each amended to read as follows:

The following agricultural business records and commodity board and commission records are exempt from the disclosure requirements of this chapter:

(1) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the department of agriculture (~~((under RCW 15.13.310(4) or 15.49.370(6)))~~) to administer these chapters or the department's programs

(2) Consignment information contained on phytosanitary certificates issued by the department of agriculture under chapters 15.13, 15.49, and 15.17 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States department of agriculture, or on applications for phytosanitary certification required by the department of agriculture; and

(3) Financial and commercial information and records supplied by persons ~~((to))~~ (a) to the department of agriculture for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; (b) to the department of agriculture or commodity boards or commissions formed under chapter~~((s))~~ 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.100, ~~((and))~~ or 16.67 RCW with respect to domestic or export marketing activities or individual producer's production information.

NEW SECTION. Sec. 67. A new section is added to chapter 15.26 RCW to read as follows:

(1) Under RCW 42.17.31907, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 68. A new section is added to chapter 15.28 RCW to read as follows:

(1) Under RCW 42.17.31907, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 69. A new section is added to chapter 15.44 RCW to read as follows:

(1) Under RCW 42.17.31907, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 70. A new section is added to chapter 15.88 RCW to read as follows:

(1) Under RCW 42.17.31907, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 71. A new section is added to chapter 16.67 RCW to read as follows:

(1) Under RCW 42.17.31907, certain agricultural business records, commission records, and department of agriculture records relating to the commission and producers of agricultural commodities are exempt from public disclosure.

(2) Financial and commercial information and records submitted to either the department or the commission for the purpose of administering this chapter may be shared between the department and the commission. They may also be used, if required, in any suit or administrative hearing involving any provision of this chapter or a marketing order.

(3) This chapter does not prohibit:

(a) The issuance of general statements based upon the reports of persons subject to this chapter as long as the statements do not identify the information furnished by any person; or

(b) The publication by the director or the commission of the name of any person violating this chapter and a statement of the manner of the violation by that person.

NEW SECTION. Sec. 72. A new section is added to chapter 15.24 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards and commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 73. A new section is added to chapter 15.26 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards and commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 74. A new section is added to chapter 15.28 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards and commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 75. A new section is added to chapter 15.44 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards and commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 76. A new section is added to chapter 15.88 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 77. A new section is added to chapter 16.67 RCW to read as follows:

The director may provide by rule for a method to fund staff support for all commodity boards or commissions in accordance with section 78 of this act if a position is not directly funded by the legislature and costs related to the specific activity undertaken on behalf of an individual commodity board or commission. The commission shall provide funds to the department according to the rules adopted by the director.

NEW SECTION. Sec. 78. A new section is added to chapter 43.23 RCW to read as follows:

(1) The director may provide by rule for a method to fund staff support for all commodity boards and commissions if a position is not directly funded by the legislature.

(2) Staff support funded under this section and sections 7(1)(c), 44(3), and 72 through 77 of this act shall be limited to one-half full-time equivalent employee for all commodity boards and commissions.

NEW SECTION. Sec. 79. A new section is added to chapter 16.67 RCW to read as follows:

The history, economy, culture, and the future of Washington state's agriculture involves the beef industry. In order to develop and promote beef and beef products as part of an existing comprehensive scheme to regulate those products the legislature declares:

(1) That the Washington state beef commission is created;

(2) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its beef and beef products be properly promoted by (a) enabling the beef industry to help themselves in establishing orderly, fair,

sound, efficient, and unhampered marketing, grading, and standardizing of beef and beef products they produce; and (b) working to stabilize the beef industry by increasing consumption of beef and beef products within the state, the nation, and internationally;

(3) That beef producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the beef producer's ability to compete in local, domestic, and foreign markets;

(4) That it is in the overriding public interest that support for the beef industry be clearly expressed, that adequate protection be given to agricultural commodities, uses, activities, and operations, and that beef and beef products be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Increase the sale and use of beef products in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of beef and beef products, and in reference to the various cuts and grades of beef and the uses to which each should be put;

(d) Increase the knowledge of the health-giving qualities and dietetic value of beef products; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of beef and beef products;

(5) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state; and

(6) That the beef industry is a highly regulated industry and that this chapter and the rules adopted under it are only one aspect of the regulated industry. Other regulations and restraints applicable to the beef industry include the:

(a) Beef Promotion and Research Act of 1985, U.S.C. Title 7, Chapter 62;

(b) Beef promotion and research, 7 C.F.R., Part 1260;

(c) Agricultural Marketing Act, 7 U.S.C., section 1621;

(d) USDA meat grading, certification, and standards, 7 C.F.R., Part 54;

(e) Mandatory price reporting, 7 C.F.R., Part 57;

(f) Grazing permits, 43 C.F.R., Part 2920;

(g) Capper-Volstead Act, U.S.C. Title 7, Chapters 291 and 292;

(h) Livestock identification under chapter 16.57 RCW and rules;

(i) Organic food products act under chapter 15.86 RCW and rules;

(j) Intrastate commerce in food, drugs, and cosmetics act under chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating to the general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;

(k) Washington food processing act under chapter 69.07 RCW and rules;

(l) Washington food storage warehouses act under chapter 69.10 RCW and rules;

(m) Animal health under chapter 16.36 RCW and rules; and

(n) Weights and measures under chapter 19.94 RCW and rules.

Sec. 80. RCW 16.67.030 and 1999 c 291 s 30 are each amended to read as follows:

For the purpose of this chapter:

(1) "Commission" means the Washington state beef commission.

(2) "Director" means the director of agriculture of the state of Washington or ~~((his duty))~~ an appointed representative.

(3) "Ex officio members" means those advisory members of the commission who do not have a vote.

(4) "Department" means the department of agriculture of the state of Washington.

(5) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(6) "Beef producer" means any person who raises, breeds, grows, or purchases cattle or calves for beef production.

(7) "Dairy (beef) producer" means any person who raises, breeds, grows, or purchases cattle for dairy production and who is actively engaged in the production of fluid milk.

(8) "Feeder" means any person actively engaged in the business of feeding cattle and usually operating a feed lot.

(9) "Producer" means any person actively engaged in the cattle industry including beef producers and dairy (beef) producers.

(10) "Washington cattle" shall mean all cattle owned or controlled by affected producers and located or sold in the state of Washington.

(11) "Meat packer" means any person operating a slaughtering establishment subject to inspection under a federal meat inspection act.

(12) "Livestock salesyard operator" means any person licensed to operate a cattle auction market or salesyard under the provisions of chapter 16.65 RCW as enacted or hereafter amended.

(13) "Mail" or "send" for purposes of any notice relating to rule making means regular mail or electronic distribution, as provided in RCW 34.05.260 for rule making. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail.

Sec. 81. RCW 16.67.070 and 1991 c 9 s 4 are each amended to read as follows:

(1) In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of such position shall be filled by the director forthwith.

(2) Each member of the commission shall be compensated in accordance with RCW 43.03.230 ~~((and))~~.

(3) Each member or employee shall be reimbursed for actual travel expenses ((in accordance with)) incurred in carrying out the provisions of this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

Sec. 82. RCW 16.67.090 and 2000 c 146 s 2 are each amended to read as follows:

The powers and duties of the commission shall include the following:

(1) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(2) To elect a chairman and such other officers as it deems advisable;

(3) To employ and discharge at its discretion a manager, secretary, and such other personnel, including attorneys engaged in the private practice of law subject to the ~~((approval and supervision))~~ review of the attorney general, as the commission determines are necessary and proper to carry out the purposes of this chapter, and to prescribe their duties and powers and fix their compensation;

(4) To adopt, rescind, and amend rules, regulations, and orders for the exercise of its powers hereunder subject to the provisions of chapter 34.05 RCW ~~((Administrative Procedure Act) as now or hereafter amended)),~~ except that rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310, the provisions of chapter 19.85 RCW, the regulatory fairness act, and the provisions of RCW 43.135.055 when adoption of the rule is determined by a referendum vote of the affected parties;

(5) To establish by resolution, a headquarters which shall continue as such unless and until so changed by the commission. All records, books and minutes of the commission shall be kept at such headquarters;

(6) To require a bond of all commission members and employees of the commission in a position of trust in the amount the commission shall deem necessary. The premium for such bond or bonds shall be paid by the commission from assessments collected. Such bond shall not be necessary if any such commission member or employee is covered by any blanket bond covering officials or employees of the state of Washington;

(7) To establish a beef commission revolving fund, such fund to be deposited in a bank or banks or financial institution or institutions, approved for the deposit of state funds, in which all money received by the commission, except an amount of petty cash for each day's needs not to exceed one hundred dollars, shall be deposited each day or as often during the day as advisable; none of the provisions of RCW 43.01.050 as now or hereafter amended shall apply to money collected under this chapter;

(8) To prepare a budget or budgets covering anticipated income and expenses to be incurred in carrying out the provisions of this chapter during each fiscal year;

(9) To incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(10) To borrow money, not in excess of its estimate of its revenue from the current year's contributions;

(11) To keep or cause to be kept in accordance with accepted standards of good accounting practice, accurate records of all assessments, expenditures, moneys and other financial transactions made and done pursuant to this chapter. Such records, books and accounts shall be audited at least every five years subject to procedures and methods lawfully prescribed by the state auditor. Such books and accounts shall be closed as of the last day of each fiscal year. A copy of such audit shall be delivered within thirty days after completion thereof to the director, the state auditor and the commission. On such years and in such event the state auditor is unable to audit the records, books and accounts within six months following the close of the audit period it shall be mandatory that the commission employ a private auditor to make such audit;

(12) To sue and be sued as a commission, without individual liability for acts of the commission within the scope of the powers conferred upon it by this chapter;

(13) To cooperate with any other local, state, or national commission, organization or agency, whether voluntary or established by state or federal law, including recognized livestock groups, engaged in work or activities similar to the work and activities of the commission created by this chapter and make contracts and agreements with such organizations or agencies for carrying on joint programs beneficial to the beef industry;

(14) To accept grants, donations, contributions or gifts from any governmental agency or private source for expenditures for any purpose consistent with the provisions of this chapter; and

(15) To operate jointly with beef commissions or similar agencies established by state laws in adjoining states.

Sec. 83. RCW 16.67.120 and 2000 c 146 s 5 are each amended to read as follows:

(1) There is hereby levied an assessment of (~~fifty cents~~) one dollar per head on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: **PROVIDED**, That if such sale is accompanied by a brand inspection by the department such assessment may be collected at the same time, place and in the same manner as brand inspection fees. Such fees may be collected by the livestock services division of the department and transmitted to the commission: **PROVIDED FURTHER**, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission by the fifteenth day of the month following the month the transaction occurred.

(2) The procedures for collecting all state and federal assessments under this chapter shall be as required by the federal order and as described by rules adopted by the commission.

Sec. 84. RCW 16.67.122 and 2000 c 146 s 6 are each amended to read as follows:

In addition to the assessment authorized pursuant to RCW 16.67.120, the commission has the authority to collect an additional assessment of ~~((one dollar))~~ fifty cents per head for cattle subject to assessment by federal order for the purpose of providing funds for a national beef promotion and research program. The manner in which this assessment will be levied and collected shall be established by rule. The authority to collect this assessment shall be contingent upon the implementation of federal legislation providing for a national beef promotion and research program and the establishment of the assessment requirement to fund its activities.

NEW SECTION. Sec. 85. A new section is added to chapter 16.67 RCW to read as follows:

The commission has the power to subpoena witnesses and to issue subpoenas for the production of any books, records, or documents of any kind for the purpose of enforcing this chapter.

NEW SECTION. Sec. 86. A new section is added to chapter 16.67 RCW to read as follows:

(1) The commission shall reimburse the director for necessary costs for services conducted on behalf of the commission under this chapter.

(2) The commission may enter into an agreement with the director to administer this chapter or chapter 34.05 RCW.

NEW SECTION. Sec. 87. A new section is added to chapter 15.44 RCW to read as follows:

The history, economy, culture, and the future of Washington state's agriculture involves the dairy industry. In order to develop and promote Washington's dairy products as part of an existing comprehensive scheme to regulate those products the legislature declares:

(1) That the Washington state dairy products commission is created. The commission may also take actions under the name "the dairy farmers of Washington";

(2) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its dairy products be properly promoted by (a) enabling the dairy industry to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standardizing of the dairy products they produce; and (b) working to stabilize the dairy industry by increasing consumption of dairy products within the state, the nation, and internationally;

(3) That dairy producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the dairy producer's ability to compete in local, domestic, and foreign markets;

(4) That it is in the overriding public interest that support for the dairy industry be clearly expressed, that adequate protection be given to agricultural commodities,

uses, activities, and operations, and that dairy products be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Increase the sale and use of Washington state's dairy products in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's dairy products;

(d) Increase the knowledge of the health giving qualities and dietetic value of dairy products; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of dairy products produced in Washington state;

(5) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state; and

(6) That the dairy industry is a highly regulated industry and that this chapter and the rules adopted under it are only one aspect of the regulated industry. Other regulations and restraints applicable to the dairy industry include the:

(a) Federal marketing order under 7 C.F.R., Part 1124;

(b) Dairy promotion program under the dairy and tobacco adjustment act of 1983, Subtitle B;

(c) Milk and milk products act under chapter 15.36 RCW and rules, including the:

(i) The national conference of interstate milk shippers pasteurized milk ordinance;

(ii) The national conference of interstate milk shippers dry milk ordinance;

(iii) Standards for the fabrication of single-service containers;

(iv) Procedures governing cooperative state-public health service;

(v) Methods of making sanitation ratings of milk supplies;

(vi) Evaluation and certification of milk laboratories; and

(vii) Interstate milk shippers;

(d) Milk and milk products for animal food act under chapter 15.37 RCW and rules;

(e) Organic food products act under chapter 15.86 RCW and rules;

(f) Intrastate commerce in food, drugs, and cosmetics act under chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating to the general manufacturing practices, milk processing, food labeling, food standards, and food additives;

(g) Washington food processing act under chapter 69.07 RCW and rules;

(h) Washington food storage warehouses act under chapter 69.10 RCW and rules;

(i) Animal health under chapter 16.36 RCW and rules;

- (j) Weighmasters under chapter 15.80 RCW and rules; and
- (k) Dairy nutrient management act under chapter 90.64 RCW and rules.

Sec. 88. RCW 15.44.010 and 1985 c 261 s 17 are each amended to read as follows:

As used in this chapter:

"Commission" means the Washington state dairy products commission;

To "ship" means to deliver or consign milk or cream to a person dealing in, processing, distributing, or manufacturing dairy products for sale, for human consumption or industrial or medicinal uses;

"Handler" means one who purchases milk, cream, or skimmed milk for processing, manufacturing, sale, or distribution;

"Dealer" means one who handles, ships, buys, and sells dairy products, or who acts as sales or purchasing agent, broker, or factor of dairy products;

"Mail" or "send" for purposes of any notice relating to rule making, referenda, or elections means regular mail or electronic distribution, as provided in RCW 34.05.260 for rule making. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail;

"Processor" means a person who uses milk or cream for canning, drying, manufacturing, preparing, or packaging or for use in producing or manufacturing any product therefrom;

"Producer" means a person who produces milk from cows and sells it for human or animal food, or medicinal or industrial uses;

"Maximum authorized assessment rate" means the level of assessment most recently approved by a referendum of producers;

"Current level of assessment" means the level of assessment paid by the producer as set by the commission which cannot exceed the maximum authorized assessment rate.

Sec. 89. RCW 15.44.020 and 1979 ex.s. c 238 s 2 are each amended to read as follows:

~~((There is hereby created a Washington state dairy products commission to be thus known and designated: PROVIDED, That the commission may take actions under the name, "the dairy farmers of Washington".))~~ The dairy products commission shall be composed of not more than ten members. There shall be one member from each district who shall be a practical producer of dairy products to be elected by such producers, one member shall be a dealer, and one member shall be a producer who also acts as a dealer, and such dealer and producer who acts as a dealer shall be appointed by the director of agriculture, and the director of agriculture shall be an ex officio member without vote.

Sec. 90. RCW 15.44.035 and 1965 ex.s. c 44 s 7 are each amended to read as follows:

(1) The commission shall prior to each election, in sufficient time to satisfy the requirements of RCW 15.44.033, furnish the director with a list of all producers

within the district for which the election is being held. The commission shall require each dealer and shipper in addition to the information required under RCW 15.44.110 to furnish the commission with a list of names of producers whose milk they handle.

(2) Any producer may on his or her own motion file his or her name with the commission for the purpose of receiving notice of election.

(3) It is the responsibility of each producer to ensure that his or her correct address is filed with the commission.

(4) For all purposes of giving notice, holding referenda, and electing members of the commission, the applicable list of producers corrected up to the day preceding the date the list is certified and mailed to the director is deemed to be the list of all producers or handlers, as applicable, entitled to notice or to vote. The list shall be corrected and brought up-to-date in accordance with evidence and information provided to the commission.

NEW SECTION. **Sec. 91.** A new section is added to chapter 15.44 RCW to read as follows:

(1) The commission shall reimburse the director for necessary costs for services conducted on behalf of the commission under this chapter.

(2) The commission may enter into an agreement with the director to administer this chapter or chapter 34.05 RCW.

Sec. 92. RCW 15.44.038 and 1984 c 287 s 15 are each amended to read as follows:

(1) A majority of the commission members shall constitute a quorum for the transaction of all business and the performance of all duties of the commission.

(2) Each member shall be compensated in accordance with RCW 43.03.230 ~~((and))~~. Each member or employee shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter as defined by the commission in rule. Otherwise, if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

Sec. 93. RCW 15.44.060 and 1999 c 300 s 1 are each amended to read as follows:

The commission shall have the power and duty to:

(1) Elect a chairman and such other officers as it deems advisable, and adopt, rescind, and amend rules, regulations, and orders for the exercise of its powers, which shall have the effect of law when not inconsistent with existing laws;

(2) Administer and enforce the provisions of this chapter and perform all acts and exercise all powers reasonably necessary to effectuate the purpose hereof;

(3) Employ and discharge advertising counsel, advertising agents, and such attorneys, agents, and employees as it deems necessary, and prescribe their duties and powers and fix their compensation;

(4) Establish offices, incur expenses, enter into contracts, and create such liabilities as are reasonable and proper for the proper administration of this chapter;

(5) Investigate and prosecute violations of this chapter;

(6) Conduct scientific research designed to improve milk production, quality, transportation, processing, and distribution and to develop and discover uses for products of milk and its derivatives;

(7) Make in its name such ~~((advertising))~~ contracts and other agreements as are necessary to build demand and promote the sale of dairy products on either a state, national, or foreign basis;

(8) Keep accurate records of all its dealings, which shall be open to public inspection and audit by the regular agencies of the state;

(9) Conduct the necessary research to develop more efficient and equitable methods of marketing dairy products, and enter upon, singly or in participation with others, the promotion and development of state, national, or foreign markets; ~~((and))~~

(10) Participate in federal and state agency hearings, meetings, and other proceedings relating to the regulation of the production, manufacture, distribution, sale, or use of dairy products, to provide educational meetings and seminars for the dairy industry on such matters, and to expend commission funds for such activities;

(11) Retain the services of private legal counsel to conduct legal actions, on behalf of the commission. The retention of a private attorney is subject to the review of the office of the attorney general;

(12) Work cooperatively with other local, state, and federal agencies, universities, and national organizations for the purposes of this chapter;

(13) Accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purposes of this chapter;

(14) Engage in appropriate fund-raising activities for the purpose of supporting activities of the commission authorized by this chapter;

(15) Expend funds for commodity-related education, training, and leadership programs as the commission deems appropriate; and

(16) Work cooperatively with nonprofit and other organizations to carry out the purposes of this chapter.

Sec. 94. RCW 15.44.070 and 1975 1st ex.s. c 7 s 39 are each amended to read as follows:

(1) Every rule~~((, regulation,))~~ or order made by the commission shall be filed with the director and published in two legal newspapers, one east and one west of the Cascade mountains ~~((and one west thereof))~~, within ten days after it is ~~((promulgated))~~ adopted, and ~~((shall become))~~ is effective ~~((pursuant to the provisions of))~~ as set forth under RCW 34.05.380.

(2) Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310, the provisions of chapter 19.85 RCW, the regulatory fairness act, and the provisions of RCW 43.135.055 when adoption of the rule is determined by a referendum vote of the affected parties.

Sec. 95. RCW 15.44.080 and 1985 c 261 s 18 are each amended to read as follows:

(1) There is hereby levied upon all milk produced in this state an assessment of ~~((0.6%))~~;

(a) 0.75 percent of class I price for 3.5~~((%))~~ percent butter fat milk as established in any market area by a market order in effect in that area or by the state department of agriculture in case there is no market order for that area; ~~((and))~~ or

(b) While the federal dairy and tobacco adjustment act of 1983, Title I, Subtitle B-dairy promotion program, is in effect:

(i) An assessment rate not to exceed the rate approved at the most recent referendum that would achieve a ten cent per hundredweight credit to local, state, or regional promotion organizations provided by Title I, Subtitle B of the federal dairy and tobacco adjustment act of 1983; and

(ii) An additional assessment of 0.625 of one cent per hundredweight.

(2) Subject to approval by a producer referendum as provided in this section, the commission shall have the further power and duty to increase the amount of the maximum authorized assessment rate to be levied upon either milk or cream according to the necessities required to effectuate the stated purpose of the commission.

In determining such necessities, the commission shall consider one or more of the following:

(a) The necessities of~~((--))~~;

(i) Developing better and more efficient methods of marketing milk and related dairy products;

(ii) Aiding dairy producers in preventing economic waste in the marketing of their commodities;

(iii) Developing and engaging in research for developing better and more efficient production, marketing, and utilization of agricultural products;

(iv) Establishing orderly marketing of dairy products;

(v) Providing for uniform grading and proper preparation of dairy products for market;

(vi) Providing methods and means including but not limited to public relations and promotion, for the maintenance of present markets, for development of new or larger markets, both domestic and foreign, for dairy products produced within this state, and for the prevention, modification, or elimination of trade barriers which obstruct the free flow of such agricultural commodities to market;

(vii) Restoring and maintaining adequate purchasing power for dairy producers of this state; and

(viii) Protecting the interest of consumers by assuring a sufficient pure and wholesome supply of milk and cream of good quality;

(b) The extent and probable cost of required research and market promotion and advertising;

(c) The extent of public convenience, interest, and necessity; and

(d) The probable revenue from the assessment as a consequence of its being revised.

(3)(a) This section shall apply where milk or cream is marketed either in bulk or package. However, this section shall not apply to milk or cream used upon the farm or in the household where produced.

(b) The increase in the maximum authorized assessment rate to be charged producers on milk and cream provided for in this section shall not become effective until approved by fifty-one percent of the producers voting in a referendum conducted by the commission.

The referendum for approval of any increase in the maximum authorized assessment rate provided for in this section shall be by secret mail ballot furnished to all producers paying assessments to the commission. The commission shall furnish ballots to producers at least ten days in advance of the day it has set for concluding the referendum and counting the ballots. Any interested producer may be present at such time the commission counts ~~((said))~~ the ballots.

Sec. 96. RCW 15.44.085 and 1979 ex.s. c 238 s 5 are each amended to read as follows:

There is hereby levied on every hundredweight of class I or class II milk, as defined in RCW 15.44.087, sold by a dealer, including any milk sold by a producer who acts as a dealer, an assessment of:

(1) Five-eighths of one cent per hundredweight. Such assessment shall be in addition to the producer assessment paid by any producer who also acts as a dealer.

(2) Any additional assessment, within the power and duty of the commission to levy, such that the total assessment shall not exceed one cent per hundredweight, as required to effectuate the purpose of this section.

Such assessment may be increased by approval of dealers and producers who also act as dealers, subject to the standards set forth in chapter 15.44 RCW for increasing or decreasing assessments. The funds derived from such assessment shall be used for educational programs ~~((in institutions of learning))~~ and the sum of such funds derived annually from said dealers and producers who act as dealers shall be matched by assessments derived from producers for the purpose of funding ~~((said))~~ the educational purposes ~~((in institutions of learning))~~ by an amount not less than the moneys collected from dealers and producers who act as dealers.

Sec. 97. RCW 15.44.110 and 1961 c 11 s 15.44.110 are each amended to read as follows:

(1) Each dealer and shipper shall at such times as by rule ~~((or regulation))~~ required~~((;))~~ file with the commission a return under oath on forms to be furnished by the commission, stating the quantity of dairy products handled, processed, manufactured, delivered, and shipped, and the quantity of all milk and cream delivered to or purchased by such person from the various producers of dairy products or their agents in the state during the period or periods prescribed by the commission.

(2) The commission has the authority to issue subpoenas for the production of books, records, documents, and other writings of any kind and may issue subpoenas to witnesses to give testimony.

Sec. 98. RCW 15.44.140 and 1961 c 11 s 15.44.140 are each amended to read as follows:

(1) The commission through its agents may inspect the premises and records of any carrier, handler, dealer, manufacturer, processor, or distributor of dairy products for the purpose of enforcing this chapter.

(2) The commission has the authority to issue subpoenas for the production of books, records, documents, and other writings of any kind for any carrier, handler, dealer, manufacturer, processor, or distributor of dairy products for the purpose of enforcing this chapter.

NEW SECTION. Sec. 99. A new section is added to chapter 15.44 RCW to read as follows:

The commission is authorized to adopt rules governing promotional hosting expenditures by commission employees, agents, or board members under RCW 15.04.200.

NEW SECTION. Sec. 100. A new section is added to chapter 15.44 RCW to read as follows:

The commission may establish foundations using commission funds as grant money when the foundation benefits the dairy products industry. Commission funds may only be used for the purposes authorized in this chapter.

NEW SECTION. Sec. 101. A new section is added to chapter 15.44 RCW to read as follows:

Any board member of the commission may be a member or officer of an association that has the same objectives for which the commission was formed. The commission may contract with the association for services necessary to carry out any purposes authorized under this chapter if an appropriate written contract has been entered into.

Sec. 102. RCW 15.44.150 and 1961 c 11 s 15.44.150 are each amended to read as follows:

~~((The state shall not be liable for the acts or on the contracts of the commission, nor shall any member or employee of the commission be liable on its contracts.))~~ Any action by the commission administrator, member, employee, or agent thereof pertaining to the performance or nonperformance or misperformance of any matters or things authorized, required, or permitted by this chapter, and any other liabilities, debts, or claims against the commission shall be enforced in the same manner as if the commission were a corporation. Liability for the debts or actions of the commission's administrator, member, employee, or agent incurred in their official capacity under this chapter does not exist either against the administrator, members, employees, and agents in their individual capacity or the state of Washington. The administrator, its members, and its agents and employees

are not responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime.

All persons employed or contracting under this chapter shall be limited to, and all salaries, expenses, and liabilities incurred by the commission shall be payable only from the funds collected (~~(hereunder)~~) under this chapter.

NEW SECTION. **Sec. 103.** A new section is added to chapter 15.28 RCW to read as follows:

The history, economy, culture, and the future of Washington state's agriculture involves the production of soft tree fruits. In order to develop and promote Washington's soft tree fruits as part of an existing comprehensive regulatory scheme the legislature declares:

- (1) That the Washington state fruit commission is created;
- (2) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its soft tree fruits be properly promoted by (a) enabling the soft tree fruit industry to help themselves in establishing orderly, fair, sound, efficient, and unhampered cooperative marketing, grading, and standardizing of soft tree fruits they produce; and (b) working to stabilize the soft tree fruit industry by increasing consumption of soft tree fruits within the state, the nation, and internationally;
- (3) That producers of soft tree fruits operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the producers of soft tree fruits in their ability to compete in local, domestic, and foreign markets;
- (4) That it is in the overriding public interest that support for the soft tree fruit industry be clearly expressed, that adequate protection be given to agricultural commodities, uses, activities, and operations, and that soft tree fruits be promoted individually, and as part of a comprehensive industry to:
 - (a) Enhance the reputation and image of Washington state's agriculture industry;
 - (b) Increase the sale and use of Washington state's soft tree fruits in local, domestic, and foreign markets;
 - (c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of Washington state's soft tree fruits;
 - (d) Increase the knowledge of the health-giving qualities and dietetic value of soft tree fruits;
 - (e) Support and engage in cooperative programs or activities that benefit the production, handling, processing, marketing, and uses of soft tree fruits produced in Washington state;
- (5) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the

people of this state and to stabilize and protect the soft tree fruit industry of the state; and

(6) That the production and marketing of soft tree fruit is a highly regulated industry and that the provisions of this chapter and the rules adopted under it are only one aspect of the regulated industry. Other regulations and restraints applicable to the soft tree fruit industry include:

- (a) The federal marketing order under 7 C.F.R. Part 922 (apricots);
- (b) The federal marketing order under 7 C.F.R. Part 923 (sweet cherries);
- (c) The federal marketing order under 7 C.F.R. Part 924 (prunes);
- (d) The federal marketing order under 7 C.F.R. Part 930 (tart cherries);
- (e) The federal marketing order under 7 C.F.R. Part 931 (Bartlett pears);
- (f) Tree fruit research act under chapter 15.26 RCW;
- (g) Controlled atmosphere storage of fruits and vegetables under chapter 15.30 RCW;
- (h) Organic food products act under chapter 15.86 RCW;
- (i) Intrastate commerce in food, drugs, and cosmetics under chapter 69.04 RCW and rules;
- (j) Washington food processing act under chapter 69.07 RCW;
- (k) Washington food storage warehouses act under chapter 69.10 RCW;
- (l) Weighmasters under chapter 15.80 RCW;
- (m) Horticultural pests and diseases under chapter 15.08 RCW;
- (n) Horticultural plants and facilities - inspection and licensing under chapter 15.13 RCW;
- (o) Planting stock under chapter 15.14 RCW;
- (p) Standards of grades and packs under chapter 15.17 RCW;
- (q) Washington pesticide control act under chapter 15.58 RCW;
- (r) Farm marketing under chapter 15.64 RCW;
- (s) Insect pests and plant diseases under chapter 17.24 RCW;
- (t) Weights and measures under chapter 19.94 RCW;
- (u) Agricultural products - commission merchants, dealers, brokers, buyers, and agents under chapter 20.01 RCW; and
- (v) Rules under the Washington Administrative Code, Title 16.

Sec. 104. RCW 15.28.010 and 1989 c 354 s 27 are each amended to read as follows:

As used in this chapter:

- (1) "Commission" means the Washington state fruit commission.
- (2) "Shipment" or "shipped" includes loading in a conveyance to be transported to market for resale, and includes delivery to a processor or processing plant, but does not include movement from the orchard where grown to a packing or storage plant within this state for fresh shipment;
- (3) "Handler" means any person who ships or initiates the shipping operation, whether as owner, agent or otherwise;

(4) "Dealer" means any person who handles, ships, buys, or sells soft tree fruits other than those grown by him or her, or who acts as sales or purchasing agent, broker, or factor of soft tree fruits;

(5) "Processor" or "processing plant" includes every person or plant receiving soft tree fruits for the purpose of drying, dehydrating, canning, pressing, powdering, extracting, cooking, quick-freezing, brining, or for use in manufacturing a product;

(6) "Soft tree fruits" mean Bartlett pears and all varieties of cherries, apricots, prunes, plums, and peaches, which includes all varieties of nectarines. "Bartlett pears" means and includes all standard Bartlett pears and all varieties, strains, subvarieties, and sport varieties of Bartlett pears including Red Bartlett pears, that are harvested and utilized at approximately the same time and approximately in the same manner.

(7) "Commercial fruit" or "commercial grade" means soft tree fruits meeting the requirements of any established or recognized fresh fruit or processing grade. Fruit bought or sold on orchard run basis and not subject to cull weighback shall be deemed to be "commercial fruit."

(8) "Cull grade" means fruit of lower than commercial grade except when such fruit included with commercial fruit does not exceed the permissible tolerance permitted in a commercial grade;

(9) "Producer" means any person who is a grower of any soft tree fruit;

(10) "District No. 1" or "first district" includes the counties of Chelan, Okanogan, Grant, Douglas, Ferry, Stevens, Pend Oreille, Spokane and Lincoln;

(11) "District No. 2" or "second district" includes the counties of Kittitas, Yakima, and Benton county north of the Yakima river;

(12) "District No. 3" or "third district" comprises all of the state not included in the first and second districts;

(13) "Mail" or "send" for purposes of any notice relating to rule making, referenda, or elections means regular mail or electronic distribution, as provided in RCW 34.05.260 for rule making. "Electronic distribution" or "electronically" means distribution by electronic mail or facsimile mail;

(14) "Department" means the department of agriculture;

(15) "Director" means the director of agriculture.

Sec. 105. RCW 15.28.020 and 1967 c 191 s 1 are each amended to read as follows:

~~((A corporation to be known as the Washington state fruit commission is hereby created.))~~ The commission is composed of sixteen voting members, ~~((to wit))~~ as follows: Ten producers, four dealers, and two processors, who ~~((shall be))~~ are elected and qualified as ~~((herein))~~ provided in this chapter. The director ~~((of agriculture, hereinafter referred to as the director, or his duly)), or an~~ authorized representative, shall be an ex officio member without a vote.

A majority of the voting members ~~((shall))~~ constitute a quorum for the transaction of any business.

Sec. 106. RCW 15.28.110 and 1961 c 11 s 15.28.110 are each amended to read as follows:

The commission's duties are:

- (1) To adopt a ~~((corporate))~~ commission seal;
- (2) To elect a secretary-manager(;) and a treasurer, and fix their compensation. The same person may be elected to both ~~((of said))~~ offices;
- (3) To establish classifications of soft tree fruits;
- (4) To conduct scientific research and develop the healthful, therapeutic, and dietetic value of ~~((said))~~ fruits, and promote the general welfare of the soft tree fruit industry of the state;
- (5) To conduct a comprehensive advertising and educational campaign to effectuate the objects of this chapter;
- (6) To increase the production, and develop and expand the markets, and improve the handling and quality of ~~((said))~~ fruits;
- (7) To keep accurate accounts and records of all of its dealings, which shall be open to inspection and audit by the state auditor;
- (8) To investigate and prosecute violations ~~((hereof))~~ of this chapter; and
- (9) To serve as an advisory committee to the director with regard to the adoption and enforcement of rules:
 - (a) Governing the grading, packing, and size and dimensions of commercial containers of soft tree fruits; and
 - (b) Fixing commercial grades of soft tree fruits and the issuance of certificates of inspection for those fruits.

Sec. 107. RCW 15.28.130 and 1961 c 11 s 15.28.130 are each amended to read as follows:

Neither the state, nor any member, agent, or employee of the commission, ~~((shall be))~~ is liable for the acts of the commission, or upon its contracts.

All salaries, expenses, costs, obligations, and liabilities of the commission, and claims arising from the administration of this chapter, ~~((shall be))~~ are payable only from funds collected ~~((hereunder))~~ under this chapter.

In any civil or criminal action or proceeding for violation of any rule of statutory or common law against monopolies or combinations in restraint of trade, including any action under chapter 19.86 RCW, proof that the act complained of was done in compliance with the provisions of this chapter, and in furtherance of the purposes and provisions of this chapter, is a complete defense to such an action or proceeding.

Sec. 108. RCW 15.28.250 and 1961 c 11 s 15.28.250 are each amended to read as follows:

Unless the assessment has been paid by the grower and evidence thereof submitted by him or her, the dealer, handler, or processor ~~((shall be))~~ is responsible for the payment of all assessments ~~((hereunder))~~ under this chapter on all soft tree fruits handled, shipped, or processed by him or her but he or she shall charge the

same against the grower, who shall be primarily responsible for such payment. Assessments are due upon receipt of an invoice for the assessments.

If the assessment becomes delinquent, the department shall cease to provide inspection services under chapter 15.17 RCW to the delinquent party until that party pays all delinquent assessments, interest, and penalties.

Any assessment due and payable under this section constitutes a personal debt of every person so assessed or who otherwise owes the same. In addition, the commission may add to such unpaid assessment or sum an amount not exceeding ten percent of the same to defray the cost of enforcing the collecting of the same. In the event of failure of such person or persons to pay any such due and payable assessment or other such sum, the commission may bring a civil action against such person or persons, together with the specified ten percent thereon, and such action shall be tried and judgment rendered as in any other cause of action for debt due and payable.

NEW SECTION. Sec. 109. A new section is added to chapter 15.28 RCW to read as follows:

Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310 and the provisions of chapter 19.85 RCW, the regulatory fairness act, when adoption of the rule is determined by a referendum vote of the affected parties.

NEW SECTION. Sec. 110. A new section is added to chapter 15.88 RCW to read as follows:

The history, economy, culture, and future of Washington state's agriculture involves the wine industry. In order to develop and promote wine grapes and wine as part of an existing comprehensive scheme to regulate those products the legislature declares:

(1) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its wine grapes and wine be properly promoted by (a) enabling the wine industry to help themselves in establishing orderly, fair, sound, efficient, and unhampered marketing of wine grapes and wines they produce; and (b) working to stabilize the wine industry by increasing markets for wine grapes and wine within the state, the nation, and internationally;

(2) That wine grape growers and wine producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the wine grape growers' and wine producers' ability to compete in local, domestic, and foreign markets;

(3) That it is in the overriding public interest that support for the wine industry be clearly expressed; that adequate protection be given to agricultural commodities, uses, activities, and operations; and that wine grapes and wine be promoted individually, and as part of a comprehensive industry to:

(a) Enhance the reputation and image of Washington state's agriculture industry;

(b) Increase the sale and use of wine grapes and wine in local, domestic, and foreign markets;

(c) Protect the public by educating the public in reference to the quality, care, and methods used in the production of wine grapes and wine;

(d) Increase the knowledge of the qualities and value of Washington's wine grapes and wine; and

(e) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of wine grapes and wine;

(4) That this chapter is enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state; and

(5) That the production and marketing of wine grapes and wine is a highly regulated industry and that the provisions of this chapter and the rules adopted under it are only one aspect of the regulated industry. Other regulations and restraints applicable to the wine grape and wine industry include:

(a) Organic food products act under chapter 15.86 RCW;

(b) Horticultural pests and diseases under chapter 15.08 RCW;

(c) Horticultural plants and facilities—inspection and licensing under chapter 15.13 RCW;

(d) Planting stock under chapter 15.14 RCW;

(e) Washington pesticide control act under chapter 15.58 RCW;

(f) Insect pests and plant diseases under chapter 17.24 RCW;

(g) Wholesale distributors and suppliers of wine and malt beverages under chapter 19.126 RCW;

(h) Weights and measures under chapter 19.94 RCW;

(i) Title 66 RCW, alcoholic beverage control;

(j) Title 69 RCW, food, drugs, cosmetics, and poisons including provisions of 21 C.F.R. relating to the general manufacturing practices, food labeling, food standards, food additives, and pesticide tolerances;

(k) Chapter 69.07 RCW, Washington food processing act;

(l) 27 U.S.C., Secs. 201 through 211, 213 through 219a, and 122A;

(m) 27 C.F.R., Parts 1, 6, 9, 10, 12, 16, 240, 251, 252; and

(n) Rules under Titles 16 and 314 WAC, and rules adopted under chapter 15.88 RCW.

Sec. 111. RCW 15.88.050 and 1987 c 452 s 5 are each amended to read as follows:

The director shall appoint the members of the commission. In making such appointments of the voting members, the director shall take into consideration recommendations made by the growers' association and the wine institute as the persons recommended for appointment as members of the commission. In appointing persons to the commission, the director shall seek to ensure as nearly as possible a balanced representation on the commission which would reflect the

composition of the growers and wine producers throughout the state as to number of acres cultivated and amount of wine produced.

The appointment shall be carried out immediately subsequent to July 1, 1987, and members so appointed as set forth in this chapter shall serve for the periods set forth for the original members of the commission under RCW 15.88.040.

In the event a position on the commission becomes vacant due to resignation, disqualification, death, or for any other reason, the unexpired term of the position shall immediately be filled by appointment by the director.

Each member or employee of the commission shall be reimbursed for actual travel expenses ((in accordance with)) incurred in carrying out the provisions of this chapter as defined by the commission in rule. Otherwise if not defined in rule, reimbursement for travel expenses shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 112. A new section is added to chapter 43.23 RCW to read as follows:

The director may consult with each commodity commission established under state law in order to establish or maintain an integrated comprehensive regulatory scheme for each commodity and the agricultural industry in this state as a whole.

Sec. 113. RCW 15.76.150 and 1965 ex.s. c 32 s 2 are each amended to read as follows:

The director shall have the authority to make allocations from the state fair fund, including interest income under RCW 43.79A.040, exclusively as follows: Eighty-five percent to participating agricultural fairs, distributed according to the merit of such fairs measured by a merit rating to be set up by the director. This merit rating shall take into account such factors as area and population served, open and/or youth participation, attendance, gate receipts, number and type of exhibits, premiums and prizes paid, community support, evidence of successful achievement of the aims and purposes of the fair, extent of improvements made to grounds and facilities from year to year, and overall condition and appearance of grounds and facilities. The remaining fifteen percent of money in the state fair fund may be used for special assistance to any participating fair or fairs and for administrative expenses incurred in the administration of this chapter only, including expenses incurred by the fair commission as may be approved by the director: **PROVIDED,** That not more than five percent of the state fair fund may be used for such expenses.

The division and payment of funds authorized in this section shall occur at such times as the director may prescribe.

NEW SECTION. Sec. 114. The following acts or parts of acts are each repealed:

- (1) RCW 16.67.020 (Purpose of chapter) and 1969 c 133 s 19;
- (2) RCW 15.44.037 (Reimbursement of election costs) and 1965 ex.s. c 44 s 8;

(3) RCW 15.44.900 (Purpose of chapter) and 1961 c 11 s 15.44.900; and

(4) RCW 15.28.900 (Preamble) and 1961 c 11 s 15.28.900.

Sec. 115. RCW 15.24.010 and 1989 c 354 s 53 are each amended to read as follows:

As used in this chapter:

(1) "Commission" means the Washington ((state)) apple ((advertising)) commission;

(2) "Ship" means to load apples into a conveyance for transport, except apples being moved from the orchard where grown to a packing house or warehouse within the immediate area of production;

(3) "Handler" means any person who ships or initiates a shipping operation, whether for himself, herself, or for another;

(4) "Dealer" means any person who handles, ships, buys, or sells apples, or who acts as sales or purchasing agent, broker, or factor of apples;

(5) "Processor" and "processing plant" means every person to whom and every place to which apples are delivered for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article;

(6) "Processing apples" means all apples delivered to a processing plant for drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing a product or manufacturing a manufactured article. However, "processing apples" does not include fresh apples sliced or cut for raw consumption;

(7) "Fresh apples" means all apples other than processing apples;

(8) "Director" means the director of the department of agriculture or his or her duly authorized representative;

(9) "Grower district No. 1" includes the counties of Chelan, Okanogan, and Douglas;

(10) "Grower district No. 2" includes the counties of Kittitas, Yakima, Benton, and Franklin;

(11) "Grower district No. 3" includes all counties in the state not included in the first and second districts;

(12) "Dealer district No. 1" includes the area of the state north of Interstate 90;

(13) "Dealer district No. 2" includes the area of the state south of Interstate 90; and

(14) "Executive officer" includes, but is not limited to, the principal management executive, sales manager, general manager, or other executive employee of similar responsibility and authority.

Sec. 116. RCW 15.24.020 and 1989 c 354 s 54 are each amended to read as follows:

There is hereby created a Washington ((state)) apple ((advertising)) commission to be thus known and designated. The commission shall be composed

of nine practical apple producers and four practical apple dealers. The director shall be an ex officio member of the commission without vote.

The nine producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom, either individually or as an executive officer of a corporation, firm or partnership, is and has been actually engaged in growing and producing apples within the state of Washington for a period of five years, currently operates a commercial producing orchard in the district represented, and has during that period derived a substantial portion of his or her income therefrom: PROVIDED, That he or she may own and operate an apple warehouse and pack and store apples grown by others, without being disqualified, so long as a substantial quantity of the apples handled in such warehouse are grown by him or her; and he or she may sell apples grown by himself, herself, and others so long as he or she does not sell a larger quantity of apples grown by others than those grown by himself or herself. The four dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association, or cooperative organization, are and have been actively engaged as dealers in apples within the state of Washington for a period of five years, and are citizens and residents of this state, and are engaged as apple dealers in the district represented. The qualifications of members of the commission as herein set forth must continue during their term of office.

Sec. 117. RCW 15.24.040 and 1989 c 354 s 56 are each amended to read as follows:

The ~~((director))~~ commission shall call a meeting of apple growers, and meetings of apple dealers in dealer district No. 1 and dealer district No. 2 for the purpose of nominating their respective members of the commission, when a term is about to expire, or when a vacancy exists, except as provided in RCW 15.24.050, as amended, at times and places to be fixed by the commission. ~~((Said))~~ The meetings shall be held not later than February 15th of each year and insofar as practicable, the ~~((said))~~ meetings of the growers shall be held at the same time and place as the annual meeting of the Washington state horticultural association, or the annual meeting of any other producer organization which represents a majority of the state's apple producers, as determined by the commission, but not while the same is in actual session. Public notice of such meetings shall be given by the commission in such manner as it may determine: PROVIDED, That nonreceipt of the notice by any interested person shall not invalidate the proceedings. Any qualified person may be nominated orally for such positions at the ~~((said))~~ respective meetings. Nominations may also be made within five days after any such meeting by written petition filed in the Wenatchee office of the commission, signed by not less than five apple growers or dealers, as the case may be, residing within the district or within the subdivision if the nomination is made from a subdivision.

The members of the commission shall be elected by secret mail ballot under the supervision of the director: PROVIDED, That in any case where there is but

one nomination for a position, a secret mail ballot shall not be conducted or required and the director shall certify the candidate to be elected. Grower members of the commission shall be elected by a majority of the votes cast by the apple growers in the respective districts or subdivisions thereof, as the case may be, each grower who operates a commercial producing apple orchard within the district or subdivision being represented, whether an individual proprietor, partnership, joint venture, or corporation, being entitled to one vote. As to bona fide leased or rented orchards, only the lessee-operator, if otherwise qualified, shall be entitled to vote. An individual commercial orchard operator, if otherwise qualified, shall be entitled to vote as such, even though he or she is also a member of a partnership or corporation which votes for other apple acreage. Dealer members of the commission shall be elected by a majority of the votes cast by the apple dealers in the respective districts, each dealer being entitled to one vote. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held by mail in a similar manner between the two candidates for such position receiving the largest number of votes.

Sec. 118. RCW 15.24.050 and 1984 c 287 s 12 are each amended to read as follows:

In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position until the next annual meeting shall be filled by vote of the remaining members of the commission. At such annual meeting a commissioner shall be elected to fill the balance of the unexpired term.

A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.230 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when (~~out of state~~) on official commission business.

Sec. 119. RCW 15.24.070 and 1994 c 134 s 1 are each amended to read as follows:

The Washington (~~state~~) apple (~~advertising~~) commission is hereby declared and created a corporate body. The powers and duties of the commission shall include the following:

(1) To elect a chair and such other officers as it deems advisable; and to adopt, rescind, and amend rules and orders for the exercise of its powers under this chapter, which shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(3) To employ and at its pleasure discharge a manager, secretary, agents, attorneys, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur expense and enter into contracts and to create such liabilities as may be reasonable for the proper administration and enforcement of this chapter. Expenses may include reasonable, prudent use of promotional hosting to benefit the purposes of this chapter;

(5) To investigate and prosecute violations of this chapter;

(6) To conduct scientific research to develop and discover the health, food, therapeutic, and dietetic value of apples and apple products;

(7) To keep accurate record of all of its dealings, which shall be open to inspection and audit by the state auditor;

(8) To sue and be sued, adopt a corporate seal, and have all of the powers of a corporation;

(9) To expend funds for commodity-related education, training, and leadership programs as the commission deems expedient;

(10) To borrow money and incur indebtedness;

(11) To accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. The commission shall adopt rules to govern and protect the receipt and expenditure of the proceeds, rents, profits, and income of all such gifts, grants, conveyances, bequests, and devises. The authority to make expenditures granted by this subsection includes the authority to make expenditures to provide scholarships or financial assistance to persons as defined in RCW 1.16.080 or entities associated with the apple industry, but is not limited to the authority to make expenditures for such a purpose; ~~((and))~~

(12) To engage in appropriate fund-raising activities for the purpose of supporting the activities of the commission authorized by this chapter; and

(13) To retain, discharge, or contract with, at its pleasure, accountants, marketing agencies, and other professional consultants as necessary, under procedures for hiring, discharging, and review as adopted by the commission.

Sec. 120. RCW 15.24.080 and 1961 c 11 s 15.24.080 are each amended to read as follows:

In order to benefit the people of this state, the state's economy and its general tax revenues, the commission shall provide for and conduct a comprehensive and extensive research, advertising, and educational campaign as continuous as the crop, sales, and market conditions reasonably require. It shall investigate and ascertain the needs of producers, conditions of the markets, and extent to which public convenience and necessity require research and advertising to be conducted.

Sec. 121. RCW 15.24.085 and 1961 c 11 s 15.24.085 are each amended to read as follows:

The restrictive provisions of chapter 43.78 RCW shall not apply to promotional printing and literature for the Washington ~~((state))~~ apple ~~((advertising))~~ commission, the Washington state fruit commission, or the Washington state dairy products commission.

Sec. 122. RCW 15.24.090 and 1983 c 95 s 1 are each amended to read as follows:

If it appears from investigation by the commission that the revenue from the assessment levied on fresh apples under this chapter is too high or is inadequate to accomplish the purposes of this chapter, the commission shall adopt a resolution setting forth the necessities of the industry, the extent and probable cost of the required research, market promotion, and advertising, the extent of public convenience, interest, and necessity, and probable revenue from the assessment levied. It shall thereupon decrease or increase the assessment to a sum determined by the commission to be necessary for those purposes based upon a rate per one hundred pounds of apples, gross billing weight, shipped in bulk, container, or any style of package or reasonable equivalent net product assessment as determined by the commission. However, if a different rate is determined for any specific variety or for fresh apples sliced or cut for raw consumption, that different rate must be applied to that variety or those sliced or cut apples. A decrease or an increase becomes effective sixty days after the resolution is adopted or on any other date provided for in the resolution, but shall be first referred by the commission to a referendum mail ballot by the apple growers of this state conducted under the supervision of the director and be approved by a majority of the growers voting on it and also be approved by voting growers who operate more than fifty percent of the acreage voted in the same election. After the mail ballot, if favorable to the increase or decrease, the commission shall nevertheless exercise its independent judgment and discretion as to whether or not to approve the increase or decrease.

Sec. 123. RCW 15.24.100 and 1967 c 240 s 28 are each amended to read as follows:

There is hereby levied upon all fresh apples grown annually in this state, and all apples packed as Washington apples, an assessment of twelve cents on each one hundred pounds gross billing weight or reasonable equivalent net product assessment measurement, as determined by the commission, plus such annual decreases or increases thereof as are imposed pursuant to the provisions of RCW 15.24.090. All moneys collected hereunder shall be expended to effectuate the purpose and objects of this chapter.

Sec. 124. RCW 15.24.110 and 1967 c 240 s 29 are each amended to read as follows:

The assessments on fresh apples shall be paid, or provision made therefor satisfactory to the commission, prior to shipment, and no fresh apples shall be carried, transported, or shipped by any person or by any carrier, railroad, truck, boat, or other conveyance until the assessment has been paid or provision made therefor satisfactory to the commission.

The commission shall by rule (~~or regulation~~) prescribe the method of collection, and for that purpose may require stamps to be known as "Washington apple (~~advertising~~) stamps" to be purchased from the commission and attached

to the containers, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets. Rule-making procedures conducted under this section are exempt from the provisions of RCW 43.135.055 when adoption of the rule or rules is determined by a referendum vote of the persons taxed under this chapter.

NEW SECTION. Sec. 125. A new section is added to chapter 15.24 RCW to read as follows:

Rule-making proceedings conducted under this chapter are exempt from compliance with RCW 34.05.310 and the provisions of chapter 19.85 RCW, the regulatory fairness act, when the proposed rule is subject to a referendum.

Sec. 126. RCW 15.24.160 and 1961 c 11 s 15.24.160 are each amended to read as follows:

To maintain and complement the existing comprehensive regulatory scheme, the commission may employ, designate as agent, act in concert with, and enter into contracts with any person, council, or commission, including but not limited to the director, state agencies such as the Washington state fruit commission and its successors, statewide horticultural associations, organizations or associations engaged in tracking the movement and marketing of horticultural products, and organizations or associations of horticultural growers, for the purpose of promoting the general welfare of the apple industry and particularly for the purpose of assisting in the sale and distribution of apples in domestic or foreign commerce, and expend its funds or such portion thereof as it may deem necessary or advisable for such purpose and for the purpose of paying its proportionate share of the cost of any program providing direct or indirect assistance to the sale and distribution of apples in domestic or foreign commerce. For such purposes it may employ and pay for legal counsel and contract and pay for other professional services. Neither the state, nor any member, agent, or employee of the commission, is liable for the acts of the commission, or upon its contracts. In any civil or criminal action or proceeding for violation of any rule of statutory or common law against monopolies or combinations in restraint of trade, including any action under chapter 19.86 RCW, proof that the act complained of was done in compliance with the provisions of this chapter, and in furtherance of the purposes and provisions of this chapter, is a complete defense to such an action or proceeding.

Sec. 127. RCW 15.24.170 and 1975 1st ex.s. c 7 s 37 are each amended to read as follows:

Rules, regulations, and orders made by the commission shall be filed with the director and published in a legal newspaper in the cities of Wenatchee and Yakima within five days after being made, and shall become effective pursuant to the provisions of RCW (~~(34.05.040)~~) 34.05.380.

Sec. 128. RCW 15.24.800 and 1987 c 6 s 1 are each amended to read as follows:

The legislature hereby finds that, in order to permit the Washington ((state)) apple ((advertising)) commission to accomplish more efficiently its important public purposes, as enumerated in chapter 15.24 RCW, it is necessary for the state to assist in financing a new building for the commission, to be located on Euclid Avenue in Chelan county, and housing commission offices, warehouse space, and a display room. The state's assistance shall augment approximately five hundred thousand dollars in commission funds which will be applied directly to the payment of the costs of this project. The state's assistance shall be in the amount of eight hundred thousand dollars, or so much thereof as may be required, to be provided from the proceeds from the sale and issuance of general obligation bonds of the state, the principal of and interest on which shall be reimbursed to the state treasury by the commission from revenues derived from the assessments levied pursuant to chapter 15.24 RCW and other sources.

Sec. 129. RCW 15.24.802 and 1987 c 6 s 2 are each amended to read as follows:

For the purpose of providing part of the funds necessary for the Washington ((state)) apple ((advertising)) commission to undertake a capital project consisting of the land acquisition for, and the design, construction, furnishing, and equipping of, the building described in RCW 15.24.800, and to pay the administrative costs of such project, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, and other expenses incidental to the administration of such project, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight hundred thousand dollars, or so much thereof as may be required.

Sec. 130. RCW 15.24.806 and 1987 c 6 s 4 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW 15.24.802, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the Washington ((state)) apple ((advertising)) commission may direct the state treasurer to deposit therein, shall be deposited in the state building construction account in the state treasury.

Sec. 131. RCW 15.24.808 and 1987 c 6 s 5 are each amended to read as follows:

Subject to legislative appropriation, all proceeds from the sale of the bonds authorized in RCW 15.24.802 shall be administered and expended by the Washington ((state)) apple ((advertising)) commission exclusively for the purposes specified in RCW 15.24.802.

Sec. 132. RCW 15.24.812 and 1987 c 6 s 7 are each amended to read as follows:

On or before June 30 of each year, the state finance committee shall certify to the Washington ((state)) apple ((advertising)) commission the principal and interest payments determined under RCW 15.24.810, exclusive of deposit interest credit,

attributable to the bonds issued under RCW 15.24.802. On each date on which any interest or principal and interest payment is due, the commission shall cause the amount certified by the state finance committee to be due on such date to be paid out of the commission's general fund to the state treasurer for deposit into the general fund of the state treasury.

Sec. 133. RCW 15.24.818 and 1987 c 6 s 10 are each amended to read as follows:

The bonds authorized by RCW 15.24.802 shall be issued only after the treasurer of the Washington ((state)) apple ((advertising)) commission has certified that the net proceeds of the bonds, together with all money to be made available by the commission for the purposes described in RCW 15.24.802, shall be sufficient for such purposes; and also that, based upon the treasurer's estimates of future income from assessments levied pursuant to chapter 15.24 RCW and other sources, an adequate balance will be maintained in the commission's general fund to enable the commission to meet the requirements of RCW 15.24.812 during the life of the bonds to be issued.

Sec. 134. RCW 15.24.900 and 1961 c 11 s 15.24.900 are each amended to read as follows:

(1) This chapter is passed:

((1)) (a) In the exercise of the police power of the state to assure, through this chapter, and other chapters, that the apple industry is highly regulated to protect the public health, to prevent fraudulent practices, to promote the welfare of the state, and to stabilize and protect the apple industry of the state as a vital and integral part of its economy for the benefit of all its citizens;

((2)) (b) Because the apple crop grown in Washington comprises one of the major agricultural crops of Washington, and that therefore the business of selling and distributing such crop and the expanding and protection of its market is of public interest;

((3)) (c) Because it is necessary and expedient to enhance the reputation of Washington apples in domestic and foreign markets;

((4)) (d) Because it is necessary to discover the health giving qualities and food and dietetic value of Washington apples, and to spread that knowledge throughout the world in order to increase the consumption of Washington apples;

((5)) (e) Because Washington grown apples are handicapped by high freight rates in competition with eastern and foreign grown apples in the markets of the world, and this disadvantage can only be overcome by education and advertising;

((6)) (f) Because the stabilizing and promotion of the apple industry, the enlarging of its markets, and the increasing of the consumption of apples are necessary to assure and increase the payment of taxes to the state and its subdivisions, to alleviate unemployment within the state, and increase wages for agricultural labor;

((7)) (g) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and

sell only apples of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution to increase the amount secured by the producer therefor, so that they can pay higher wages and pay their taxes, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to the minimum absolutely necessary; and

~~((8))~~ (h) To protect the general public by educating it in reference to the various varieties and grades of Washington apples, the time to use and consume each variety, and the uses to which each variety should be put.

(2) The history, economy, culture, and future of Washington state's agricultural industry involves the apple industry. In order to develop and promote apples and apple products as part of an existing comprehensive scheme to regulate those products, the legislature declares:

(a) That it is vital to the continued economic well-being of the citizens of this state and their general welfare that its apple and apple products be properly promoted by establishing orderly, fair, sound, efficient, and unhampered marketing, grading, and standards of and for apples and apple products; and by working to stabilize the apple industry and by increasing consumption of apples and apple products within the state, nation, and internationally;

(b) That apple producers operate within a regulatory environment that imposes burdens on them for the benefit of society and the citizens of the state and includes restrictions on marketing autonomy. Those restrictions may impair the agricultural producer's ability to compete in local, domestic, and foreign markets;

(c) That it is in the overriding public interest that support for the apple industry be clearly expressed, that adequate protection be given to agricultural commodities, uses, activities, and operations, and that apples and apple products be promoted individually, as well as part of a comprehensive promotion of the agricultural industry to:

(i) Enhance the reputation and image of Washington state's agricultural industry;

(ii) Increase the sale and use of apples and apple products in local, domestic, and foreign markets;

(iii) Protect the public and consumers by correcting any false or misleading information and by educating the public in reference to the quality, care, and methods used in the production of apples and apple products, and in reference to the various sizes, grades, and varieties of apples and the uses to which each should be put;

(iv) Increase the knowledge of the health-giving qualities and dietetic value of apple products; and

(v) Support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of apples and apple products;

(d) That the apple industry is a highly regulated industry and that this chapter and the rules adopted under it are only one aspect of the regulation of the industry. Other regulations and restraints applicable to the apple industry include:

- (i) Washington agriculture general provisions, chapter 15.04 RCW;
- (ii) Pests and diseases, chapter 15.08 RCW;
- (iii) Standards of grades and packs, chapter 15.17 RCW;
- (iv) Tree fruit research, chapter 15.26 RCW;
- (v) Controlled atmosphere storage, chapter 15.30 RCW;
- (vi) Higher education in agriculture, chapter 28.30 RCW;
- (vii) Department of agriculture, chapter 43.23 RCW;
- (viii) Fertilizers, minerals, and limes under chapter 15.54 RCW;
- (ix) Organic food products act under chapter 15.86 RCW;
- (x) Intrastate commerce in food, drugs, and cosmetics under chapter 69.04 RCW and rules;
- (xi) Horticultural plants and facilities - inspection and licensing under chapter 15.13 RCW;
- (xii) Planting stock under chapter 15.14 RCW;
- (xiii) Washington pesticide control act under chapter 15.58 RCW;
- (xiv) Farm marketing under chapter 15.64 RCW;
- (xv) Insect pests and plant diseases under chapter 17.24 RCW;
- (xvi) Weights and measures under chapter 19.94 RCW;
- (xvii) Agricultural products - commission merchants, dealers, brokers, buyers, and agents under chapter 20.01 RCW; and
- (xviii) The federal insecticide, fungicide, and rodenticide act under 7 U.S.C. Sec. 136; and

(e) That this chapter is in the exercise of the police powers of this state for the purposes of protecting the health, peace, safety, and general welfare of the people of this state.

Sec. 135. RCW 15.26.130 and 1969 c 129 s 13 are each amended to read as follows:

The Washington apple ((~~advertising~~)) commission and the Washington state fruit commission shall supply the director with a list of known producers subject to paying assessments to the respective commissions. The director, in addition, shall at the commission's cost compile a list of known tree fruit producers producing fruit not subject to assessments of the Washington apple ((~~advertising~~)) commission and the Washington state fruit commission but subject to assessments or becoming subject to assessments under the provisions of this chapter. In compiling such list the director shall publish notice to producers of such tree fruit, requiring them to file with the director a report giving the producer's name, mailing address and orchard location. The notice shall be published once a week for four consecutive weeks in weekly or daily newspapers of general circulation in the area or areas where such tree fruit is produced. All producer reports shall be filed with the director within twenty days from the date of last publication of notice or thirty

days of mailing notice to producers of such tree fruit, whichever is later. The director shall for the purpose of conducting any referendum affecting tree fruits subject to the provisions of this chapter keep such list up to date when conducting such referendum. Every person who becomes a producer after ~~((said))~~ the list is compiled shall file with the director a similar report, giving his or her name, mailing address and orchard location. Such list shall be final and conclusive in conducting referendums and failure to notify a producer shall not be cause for the invalidation of any referendum.

Sec. 136. RCW 15.26.250 and 1969 c 129 s 25 are each amended to read as follows:

The Washington apple ~~((advertising))~~ commission and Washington state fruit commission in order to avoid unnecessary duplication of costs and efforts in collecting assessments for tree fruits at the time said commissions collect assessments due under the provisions of their acts may also collect the assessment due the commission on such tree fruit. Such assessments on winter pears may be collected by the Washington state fruit commission or in a manner prescribed by the commission. Assessments collected for the commission by the Washington ~~((state))~~ apple ~~((advertising))~~ commission and the Washington state fruit commission shall be forwarded to the commissions expeditiously. No fee shall be charged the commission for the collection of assessments because the research conducted by the commission shall be of direct benefit to all commercial growers of tree fruits in the state of Washington~~((--PROVIDED, That))~~. However, the commission shall reimburse at actual cost to the department or the Washington state fruit commission or apple commission any assessment collected for the commission by such agencies for any tree fruit subject to the provisions of this chapter, but not subject to pay assessments to the Washington state fruit commission or the Washington apple ~~((advertising))~~ commission.

NEW SECTION. Sec. 137. (1) The legislature finds that a significant growth in the amount of production for several organically grown agricultural products has occurred since the program began in the mid-1980s and that this growth is continuing. The number of acres that are now in transition from conventionally grown to organically grown agricultural products is significant. The legislature finds that there is interest by those involved in the production and marketing of organic food products to examine the feasibility and preferred method of forming a commission to assist in the promotion of organically grown products in domestic and international markets and to conduct research on improved methods of producing these products.

(2) The department of agriculture shall assist in the evaluation by organic food producers and processors of procedures that could be used to establish an organic food commission. The ability of organic food producers and processors to form a commission under the existing statutory authority in chapters 15.65 and 15.66 RCW as compared to using the procedures proposed in Senate Bill No. 6246 from the 2002 legislative session shall be evaluated.

(3) The department of agriculture shall assist in the collection of information on, and provide a forum to review current programs administered by, commodity commissions that provide benefits to organic food producers and to examine and compile the distinct needs of the organic food industry.

(4) The department of agriculture, within the limits of its currently available funds and after consultation with the organic food industry and existing commodity commissions, shall provide recommendations to the legislature by December 15, 2002, regarding legislation for the establishment of an organic food commission, and a method to fairly and equitably provide funding of commission programs.

(5) This section expires April 15, 2003.

NEW SECTION. **Sec. 138.** A new section is added to chapter 15.65 RCW to read as follows:

In order to ensure a viable and stable hop industry within the state of Washington and to further the policies set forth in RCW 15.65.040(2) (d) and (f), the legislature specifically recognizes that the hop commodity board has the power to enter into contracts, at its discretion, with individual producers of hops to set aside or remove from production existing planted hop acreage until such time as the need to contract with individual producers of hops is eliminated based on the adoption of a federal marketing order. This section does not limit the director's duty under RCW 15.65.600.

NEW SECTION. **Sec. 139.** This act takes effect July 1, 2002, except for sections 1, 15, 17, 29, 30, 39, 45, 57, 58, 137, and 138 of this act which are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed the House March 9, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 314

[House Bill 2732]

SUBSIDIZED HEALTH CARE—TAX DEDUCTION

AN ACT Relating to the tax treatment of revenue from federal or state subsidized health care; amending RCW 82.04.4297; adding a new section to chapter 82.04 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature finds that the provision of health services to those people who receive federal or state subsidized health care benefits by reason of age, disability, or lack of income is a recognized, necessary, and vital governmental function. As a result, the legislature finds that it would be inconsistent with that governmental function to tax amounts received by a public

hospital or nonprofit hospital qualifying as a health and social welfare organization, when the amounts are paid under a health service program subsidized by federal or state government. Further, the tax status of these amounts should not depend on whether the amounts are received directly from the qualifying program or through a managed health care organization under contract to manage benefits for a qualifying program. Therefore, the legislature adopts this act to provide a clear and understandable deduction for these amounts, and to provide refunds for taxes paid as specified in section 4 of this act.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

A public hospital that is owned by a municipal corporation or political subdivision, or a nonprofit hospital that qualifies as a health and social welfare organization as defined in RCW 82.04.431, may deduct from the measure of tax amounts received as compensation for health care services covered under the federal medicare program authorized under Title XVIII of the federal social security act; medical assistance, children's health, or other program under chapter 74.09 RCW; or for the state of Washington basic health plan under chapter 70.47 RCW. The deduction authorized by this section does not apply to amounts received from patient copayments or patient deductibles.

Sec. 3. RCW 82.04.4297 and 2001 2nd sp.s. c 23 s 2 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. ~~((For purposes of this section; "amounts received from" includes amounts received by a health or social welfare organization that is a nonprofit hospital or public hospital from a managed care organization or other entity that is under contract to manage health care benefits for the federal medicare program authorized under Title XVIII of the federal social security act; for a medical assistance, children's health, or other program authorized under chapter 74.09 RCW; or for the state of Washington basic health plan authorized under chapter 70.47 RCW, to the extent that these amounts are received as compensation for health care services within the scope of benefits covered by the pertinent government health care program.))~~

NEW SECTION. **Sec. 4.** A public hospital owned by a municipal corporation or political subdivision, or a nonprofit hospital that qualifies as a health and social welfare organization under RCW 82.04.431, is entitled to:

(1) A refund of business and occupation tax paid between January 1, 1998, and the effective date of this act on amounts that would be deductible under section 2 of this act; and

(2) A waiver of tax liability for accrued, but unpaid taxes that would be deductible under section 2 of this act.

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

Passed the House February 18, 2002.

Passed the Senate March 12, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 315

[Substitute House Bill 2765]

TIMBER MANAGEMENT PLANS

AN ACT Relating to timber and forest lands; and amending RCW 84.34.020 and 84.34.041.

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

Sec. 1. RCW 84.34.020 and 2001 c 249 s 12 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, or (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) preserve visual quality along highway, road, and street corridors or scenic vistas, or (viii) retain in its natural state tracts of land not less than one acre 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, or (c) any land meeting the definition of farm and agricultural conservation land under subsection (8) of this section. As a condition of granting open space classification, the legislative body may not require public access on land classified under (b)(iii) of this subsection for the purpose of promoting conservation of wetlands.

(2) "Farm and agricultural land" means:

(a) Any parcel of land that is twenty or more acres or multiple parcels of land that are contiguous and total twenty or more acres:

(i) Devoted primarily to the production of livestock or agricultural commodities for commercial purposes;

(ii) Enrolled in the federal conservation reserve program or its successor administered by the United States department of agriculture; or

(iii) Other similar commercial activities as may be established by rule;

(b) Any parcel of land that is 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, as of January 1, 1993:

(i) 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 for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, two 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;

(c) Any parcel of land of less than five acres devoted primarily to agricultural uses which has produced a gross income as of January 1, 1993, of:

(i) One thousand dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter for all parcels of land that are classified under this subsection or all parcels of land for which an application for classification under this subsection is made with the granting authority prior to January 1, 1993; and

(ii) On or after January 1, 1993, fifteen hundred dollars or more per year for three of the five calendar years preceding the date of application for classification under this chapter.

Parcels of land described in (b)(i) and (c)(i) of this subsection shall, upon any transfer of the property excluding a transfer to a surviving spouse, be subject to the limits of (b)(ii) and (c)(ii) of this subsection;

(d) Any lands including incidental uses as are compatible with agricultural purposes, including wetlands preservation, provided such incidental use does not exceed twenty percent of the classified land 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"; or

(e) The land on which housing for employees and the principal place of residence of the farm operator or owner of land classified pursuant to (a) of this subsection is sited if: The housing or residence is on or contiguous to the classified parcel; and the use of the housing or the residence is integral to the use of the classified land for agricultural purposes.

(3) "Timber land" means any parcel of land that is five or more acres or multiple parcels of land that are contiguous and total five or more acres which is or are devoted primarily to the growth and harvest of timber for commercial

purposes. (~~(A timber management plan shall be filed with the county legislative authority at the time (a) an application is made for classification as timber land pursuant to this chapter or (b) when a sale or transfer of timber land occurs and a notice of classification continuance is signed.)~~) 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 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.

(7) "Granting authority" means the appropriate agency or official who acts on an application for classification of land pursuant to this chapter.

(8) "Farm and agricultural conservation land" means either:

(a) Land that was previously classified under subsection (2) of this section, that no longer meets the criteria of subsection (2) of this section, and that is reclassified under subsection (1) of this section; or

(b) Land that is traditional farmland that is not classified under chapter 84.33 or 84.34 RCW, that has not been irrevocably devoted to a use inconsistent with agricultural uses, and that has a high potential for returning to commercial agriculture.

Sec. 2. RCW 84.34.041 and 1992 c 69 s 20 are each amended to read as follows:

An application for current use classification or reclassification under RCW 84.34.020(3) shall be made to the county legislative authority.

(1) The application shall be made upon forms prepared by the department of revenue and supplied by the granting authority and shall include the following elements that constitute a timber management plan:

(a) A legal description of, or assessor's parcel numbers for, all land the applicant desires to be classified as timber land;

(b) The date or dates of acquisition of the land;

(c) A brief description of the timber on the land, or if the timber has been harvested, the owner's plan for restocking;

(d) Whether there is a forest management plan for the land;

(e) If so, the nature and extent of implementation of the plan;

(f) Whether the land is used for grazing;

(g) Whether the land has been subdivided or a plat filed with respect to the land;

(h) Whether the land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(i) Whether the land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

(j) Whether the land is subject to a lease, option, or other right that permits it to be used for a purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when the land ceases to be classified as timber land.

(2) An application made for classification of land under RCW 84.34.020(3) shall be acted upon after a public hearing and after notice of the hearing is given by one publication in a newspaper of general circulation in the area at least ten days before the hearing. Application for classification of land in an incorporated area shall be acted upon by a granting authority composed of three members of the county legislative body and three members of the city legislative body in which the land is located.

(3) The granting authority shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain a stand of timber as defined in chapter 76.09 RCW and applicable rules, except this reason shall not alone be sufficient to deny the application (i) if the land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or the longer period necessitated by unavailability of seed or (~~seedlings~~ ~~[seedlings])~~ seedlings, or (ii) if only isolated areas within the land do not meet minimum standards due to rock outcroppings, swamps, unproductive soil, or other natural conditions;

(b) The applicant, with respect to the land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control, weed control, and forest debris provisions of Title 76 RCW or applicable rules under Title 76 RCW;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling the ordinary high tide line and two hundred feet horizontally landward from the high tide line.

(4) The timber management plan must be filed with the county legislative authority either: (a) When an application for classification under this chapter is submitted; (b) when a sale or transfer of timber land occurs and a notice of continuance is signed; or (c) within sixty days of the date the application for reclassification under this chapter or from designated forest land is received. The application for reclassification shall be accepted, but shall not be processed until the timber management plan is received. If the timber management plan is not

received within sixty days of the date the application for reclassification is received, the application for reclassification shall be denied.

If circumstances require it, the county assessor may allow in writing an extension of time for submitting a timber management plan when an application for classification or reclassification or notice of continuance is filed. When the assessor approves an extension of time for filing the timber management plan, the county legislative authority may delay processing an application until the timber management plan is received. If the timber management plan is not received by the date set by the assessor, the application or the notice of continuance shall be denied.

The granting authority may approve the application with respect to only part of the land that is described in the application, and if any part of the application is denied, the applicant may withdraw the entire application. The granting authority, in approving in part or whole an application for land classified pursuant to RCW 84.34.020(3), may also require that certain conditions be met.

Granting or denial of an application for current use classification is a legislative determination and shall be reviewable only for arbitrary and capricious actions. The granting authority may not require the granting of easements for land classified pursuant to RCW 84.34.020(3).

The granting authority shall approve or disapprove an application made under this section within six months following the date the application is received.

Passed the House March 9, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 316

[House Bill 2892]

APPLE SALES—FRESH CONSUMPTION

AN ACT Relating to selling apples for fresh consumption; and amending RCW 15.17.210.

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

Sec. 1. RCW 15.17.210 and 1998 c 154 s 14 are each amended to read as follows:

It is unlawful:

(1) To sell any fruits or vegetables:

(a) As meeting the standards for any fruit or vegetable as prescribed by the director unless they in fact do so;

(b) For which no standards have been established under this chapter unless ninety percent or more by weight or count, as determined by the director, are free from plant pest injury that has penetrated or damaged the edible portions and from worms, mold, slime, or decay;

(c) In containers other than the size and dimensions prescribed by the director by rule;

(d) Unless the containers in which the fruits or vegetables are placed or packed are marked with the proper grade and additional information as may be prescribed by rule. The additional information may include:

(i) The name and address of the grower, or packer, or distributor;

(ii) The varieties of the fruits or vegetables;

(iii) The size, weight, and either volume or count, or both, of the fruits or vegetables;

(e) Which are in containers marked or advertised for sale or sold as being either graded or classified, or both, according to the standards prescribed by the director by rule unless the fruits or vegetables conform with the standards;

(f) Which are deceptively packed;

(g) Which are deceptively arranged or displayed;

(h) Which are mislabeled; or

(i) Which do not conform to this chapter or rules adopted under this chapter;

(2) For any person to ship or transport or any carrier to accept any lot of fruits or vegetables without an inspection certificate, permit, or certificate of compliance when the director has prescribed by rule that such products be accompanied by an inspection certificate, permit, or certificate of compliance. The inspection certificate, permit, or certificate of compliance shall be on a form prescribed by the director and may include methods of denoting that all assessments provided for by law have been paid before the fruits or vegetables may lawfully be delivered or accepted for shipment;

(3) For any person to refuse to submit any container, load, or display of fruits or vegetables for inspection by the director, or refuse to stop any vehicle or equipment containing such products for the purpose of inspection by the director;
(~~(or)~~)

(4) For any person to move any fruits or vegetables or their containers to which any tag has been affixed, except as provided in RCW 15.17.200; or

(5) After October 1st of any calendar year, for any person to sell containers of apples, containing apples harvested in a prior calendar year, to any retailer or wholesaler for the purpose of resale to the public for fresh consumption.

Passed the House February 14, 2002.

Passed the Senate March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 317

[Engrossed House Bill 3011]

JOINT TASK FORCE ON LOCAL EFFORT ASSISTANCE

AN ACT Relating to local effort assistance; amending RCW 28A.500.030; 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 purpose of the local effort assistance program is stated in RCW 28A.500.010 as follows: "The purpose of these funds is to mitigate the effect that above average property tax rates might have on the ability of a school district to raise local revenues to supplement the state's basic program of education. These funds serve to equalize the property tax rates that individual taxpayers would pay for such levies and to provide tax relief to taxpayers in high tax rate school districts."

The legislature further finds that changes in state and federal funding that have taken place since the local effort assistance program began in 1989 make it necessary to reexamine the local effort assistance funding formula and to determine whether the purpose of the program is being fulfilled.

NEW SECTION. Sec. 2. (1) The joint task force on local effort assistance is created, to consist of nineteen members:

- (a) Six members of the house of representatives, three appointed by the speaker of the house of representatives and three appointed by the minority leader;
- (b) Six members of the senate, three appointed by the majority leader and three appointed by the minority leader;
- (c) The superintendent of public instruction;
- (d) A member chosen by the Washington state school directors' association;
- (e) A member chosen by the Washington association of school administrators;
- (f) A member chosen by the rural education center;
- (g) A fiscal officer of an educational service district chosen by the superintendent of public instruction in consultation with the superintendents of the educational service districts; and
- (h) Two members from school districts with student enrollments greater than twenty thousand, chosen by the office of the superintendent of public instruction.

(2) Legislative members of the task force shall be reimbursed for travel expenses as provided in RCW 44.04.120. The staff of the office of superintendent of public instruction, senate committee services, and the office of program research of the house of representatives shall provide support to the task force.

(3) The task force shall be cochaired by one senator, chosen by the task force, and one representative, chosen by the task force. The task force shall establish rules of procedure at its first meeting.

(4) The task force shall seek input and advice from stakeholders.

NEW SECTION. Sec. 3. The joint task force on local effort assistance shall:

- (1) Complete a thorough analysis of the history of the local effort assistance program and its impacts, including a thorough examination of the revenues included in the levy base;

- (2) Determine whether the purpose of the local effort assistance program, as stated in RCW 28A.500.010, is being met under the current allocation formula; and

(3) Present its findings and provide recommendations to the legislature by December 1, 2002.

Sec. 4. RCW 28A.500.030 and 1999 c 317 s 3 are each amended to read as follows:

Allocation of state matching funds to eligible districts for local effort assistance shall be determined as follows:

(1) Funds raised by the district through maintenance and operation levies shall be matched with state funds using the following ratio of state funds to levy funds:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; to

(b) The statewide average twelve percent levy rate.

(2) The maximum amount of state matching funds for districts eligible for local effort assistance shall be the district's twelve percent levy amount, multiplied by the following percentage:

(a) The difference between the district's twelve percent levy rate and the statewide average twelve percent levy rate; divided by

(b) The district's twelve percent levy rate.

(3) Calendar year 2003 allocations and maximum eligibility under this chapter shall be multiplied by 0.99.

NEW SECTION. **Sec. 5.** Sections 1 through 3 of this act expire December 31, 2002.

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

Passed the House March 13, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 318

[Engrossed Substitute Senate Bill 5207]
HEALTH CARE INFORMATION—DNA

AN ACT Relating to individually identifiable DNA testing information; and amending RCW 70.02.010.

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

Sec. 1. RCW 70.02.010 and 1993 c 448 s 1 are each amended to read as follows:

((As used in this chapter, unless the context otherwise requires:)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Audit" means an assessment, evaluation, determination, or investigation of a health care provider by a person not employed by or affiliated with the provider to determine compliance with:

- (a) Statutory, regulatory, fiscal, medical, or scientific standards;
- (b) A private or public program of payments to a health care provider; or
- (c) Requirements for licensing, accreditation, or certification.

(2) "Directory information" means information disclosing the presence, and for the purpose of identification, the name, residence, sex, and the general health condition of a particular patient who is a patient in a health care facility or who is currently receiving emergency health care in a health care facility.

(3) "General health condition" means the patient's health status described in terms of "critical," "poor," "fair," "good," "excellent," or terms denoting similar conditions.

(4) "Health care" means any care, service, or procedure provided by a health care provider:

- (a) To diagnose, treat, or maintain a patient's physical or mental condition; or
- (b) That affects the structure or any function of the human body.

(5) "Health care facility" means a hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to patients.

(6) "Health care information" means any information, whether oral or recorded in any form or medium, that identifies or can readily be associated with the identity of a patient and directly relates to the patient's health care, including a patient's deoxyribonucleic acid and identified sequence of chemical base pairs. The term includes any record of disclosures of health care information.

(7) "Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of this state to provide health care in the ordinary course of business or practice of a profession.

(8) "Institutional review board" means any board, committee, or other group formally designated by an institution, or authorized under federal or state law, to review, approve the initiation of, or conduct periodic review of research programs to assure the protection of the rights and welfare of human research subjects.

(9) "Maintain," as related to health care information, means to hold, possess, preserve, retain, store, or control that information.

(10) "Patient" means an individual who receives or has received health care. The term includes a deceased individual who has received health care.

(11) "Person" means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(12) "Reasonable fee" means the charges for duplicating or searching the record, but shall not exceed sixty-five cents per page for the first thirty pages and fifty cents per page for all other pages. In addition, a clerical fee for searching and handling may be charged not to exceed fifteen dollars. These amounts shall be

adjusted biennially in accordance with changes in the consumer price index, all consumers, for Seattle-Tacoma metropolitan statistical area as determined by the secretary of health. However, where editing of records by a health care provider is required by statute and is done by the provider personally, the fee may be the usual and customary charge for a basic office visit.

(13) "Third-party payor" means an insurer regulated under Title 48 RCW authorized to transact business in this state or other jurisdiction, including a health care service contractor, and health maintenance organization; or an employee welfare benefit plan; or a state or federal health benefit program.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 319

[Engrossed Substitute Senate Bill 5777]

HEALTH CARE—LOCAL GOVERNMENT RETIREES

AN ACT Relating to health care benefits for retirees of local government employers; reenacting and amending RCW 41.05.050; adding new sections 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. It is the intent of this act to provide retirees of local government employers access to health care benefits. It is also the intent of this act that local government employers be allowed the flexibility to design programs to meet the health care needs of their retirees and that the local government employer be able to recover all costs associated with providing retirees access to health benefits.

NEW SECTION. Sec. 2. A new section is added to chapter 41.04 RCW to read as follows:

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

(a) "Disabled employee" means an individual eligible to receive a disability retirement allowance from the public employees' retirement system.

(b) "Health plan" means a contract, policy, fund, trust, or other program established jointly or individually by a county, municipality, or other political subdivision of the state that provides for all or a part of hospitalization or medical aid for its employees and their dependents under RCW 41.04.180.

(c) "Retired employee" means a public employee meeting the retirement eligibility, years of service requirements, and other criteria set forth in the public employees' retirement system.

(2) A county, municipality, or other political subdivision that provides a health plan for its employees shall permit retired and disabled employees and their

dependents to continue participation in a plan subject to the exceptions, limitations, and conditions set forth in this section. However, this section does not apply to a county, municipality, or other political subdivision participating in an insurance program administered under chapter 41.05 RCW if retired and disabled employees and their dependents of the participating county, municipality, or other political subdivision are covered under an insurance program administered under chapter 41.05 RCW. Nothing in this subsection or this act precludes the local government employer from offering retired or disabled employees a health plan with a benefit structure, copayment, deductible, coinsurance, lifetime benefit maximum, and other plan features which differ from those offered through a health plan provided to active employees. Further, nothing in this subsection precludes a local government employer from joining with other public agency employers, including interjurisdictional benefit pools and multi-employer associations or consortiums, to fulfill its obligations under this act.

(3) A county, municipality, or other political subdivision has full authority to require a person who requests continued participation in a health plan under subsection (2) of this section to pay the full cost of such participation, including any amounts necessary for administration. However, this subsection does not require an employer who is currently paying for all or part of a health plan for its retired and disabled employees to discontinue those payments.

(4) Payments for continued participation in a former employer's health plan may be assigned to the underwriter of the health plan from public pension benefits or may be paid to the former employer, as determined by the former employer, so that an underwriter of the health plan that is an insurance company, health care service contractor, or health maintenance organization is not required to accept individual payments from persons continuing participation in the employer's health plan.

(5) After an initial open enrollment period of ninety days after the effective date of this section, an employer may not be required to permit a person to continue participation in the health plan if the person is responsible for a lapse in coverage under the plan. In addition, an employer may not be required to permit a person to continue participation in the employer's health plan if the employer offered continued participation in a health plan that meets the requirements of this act.

(6) If a person continuing participation in the former employer's health plan has medical coverage available through another employer, the medical coverage of the other employer is the primary coverage for purposes of coordination of benefits as provided for in the former employer's health plan.

(7) If a person's continued participation in a health plan was permitted because of the person's relationship to a retired or disabled employee of the employer providing the health plan and the retired or disabled employee dies, then that person is permitted to continue participation in the health plan for a period of not more than six months after the death of the retired or disabled employee. However,

the employer providing the health plan may permit continued participation beyond that time period.

(8) An employer may offer one or more health plans different from that provided for active employees and designed to meet the needs of persons requesting continued participation in the employer's health plan. An employer, in designing or offering continued participation in a health plan, may utilize terms or conditions necessary to administer the plan to the extent the terms and conditions do not conflict with this section.

(9) If an employer changes the underwriter of a health plan, the replaced underwriter has no further responsibility or obligation to persons who continued participation in a health plan of the replaced underwriter. However, the employer shall permit those persons to participate in any new health plan.

(10) The benefits granted under this section are not considered a matter of contractual right. Should the legislature, a county, municipality, or other political subdivision of the state revoke or change any benefits granted under this section, an affected person is not entitled to receive the benefits as a matter of contractual right.

(11) This section does not affect any health plan contained in a collective bargaining agreement in existence as of the effective date of this section. However, any plan contained in future collective bargaining agreements shall conform to this section. In addition, this section does not affect any health plan contract or policy in existence as of the effective date of this section. However, any renewal of the contract or policy shall conform to this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 41.04 RCW to read as follows:

Employers providing access to health insurance coverage under this act may adopt criteria which specify allowable enrollment periods, require enrollees to keep current addresses and information, and outline other processes to ensure that plans can be administered efficiently and effectively.

Sec. 4. RCW 41.05.050 and 1995 1st sp.s. c 6 s 22 and 1994 c 153 s 4 are each reenacted and amended to read as follows:

(1) Every department, division, or separate agency of state government, and such county, municipal, school district, educational service district, 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 authority. Contributions, paid by the county, the municipality, school district, educational service district, or other political subdivision for their employees, shall include an amount determined by the authority to pay such administrative expenses of the authority as are necessary to administer the plans for employees of those groups. Until October 1, 1995, contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect the remittance provided under RCW 28A.400.400.

(2) If the authority at any time determines that the participation of a county, municipal, or other political subdivision covered under this chapter adversely impacts insurance rates for state employees, the authority shall implement limitations on the participation of additional county, municipal, or other political subdivisions.

(3) 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 authority, subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

~~((3))~~ (4) The 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.

NEW SECTION. Sec. 5. This act takes effect January 1, 2003. However, if a political subdivision is unable to structure a health plan to meet the requirements of this act by January 1, 2003, additional time of up to one year is allowed. All political subdivisions must implement this act by January 1, 2004.

Passed the Senate March 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 320

[Substitute Senate Bill 5841]

GROWTH MANAGEMENT PLAN—COMPREHENSIVE PLAN REVIEW

AN ACT Relating to establishing a schedule for review of comprehensive plans and development regulations adopted under the growth management act; and amending RCW 36.70A.130.

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

Sec. 1. RCW 36.70A.130 and 1997 c 429 s 10 are each amended to read as follows:

(1)(a) Each comprehensive land use plan and development regulations shall be subject to continuing review and evaluation by the county or city that adopted them. ~~((Not later than September 1, 2002, and at least every five years thereafter,))~~ A county or city shall take legislative action to review and, if needed, revise its comprehensive land use plan and development regulations to ensure ~~((that))~~ the plan and regulations ~~((are complying))~~ comply with the requirements of this chapter according to the time periods specified in subsection (4) of this section. A county or city not planning under RCW 36.70A.040 shall take action to review and, if needed, revise its policies and development regulations regarding critical areas and natural resource lands adopted according to this chapter to ensure these policies and regulations comply with the requirements of this chapter according to

the time periods specified in subsection (4) of this section. Legislative action means the adoption of a resolution or ordinance following notice and a public hearing indicating at a minimum, a finding that a review and evaluation has occurred and identifying the revisions made, or that a revision was not needed and the reasons therefore. The review and evaluation required by this subsection may be combined with the review required by subsection (3) of this section. The review and evaluation required by this subsection shall include, but is not limited to, consideration of critical area ordinances and, if planning under RCW 36.70A.040, an analysis of the population allocated to a city or county from the most recent ten-year population forecast by the office of financial management.

(b) Any amendment of or revision to a comprehensive land use plan shall conform to this chapter~~((, and))~~. Any ~~((change))~~ amendment of or revision to development regulations shall be consistent with and implement the comprehensive plan.

(2)(a) Each county and city shall establish and broadly disseminate to the public a public participation program ~~((identifying))~~ consistent with RCW 36.70A.035 and 36.70A.140 that identifies procedures and schedules whereby updates, proposed amendments, or revisions of the comprehensive plan are considered by the governing body of the county or city no more frequently than once every year ~~((except that))~~. "Updates" means to review and revise, if needed, according to subsection (1) of this section, and the time periods specified in subsection (4) of this section. Amendments may be considered more frequently than once per year under the following circumstances:

(i) The initial adoption of a subarea plan that does not modify the comprehensive plan policies and designations applicable to the subarea;

(ii) The adoption or amendment of a shoreline master program under the procedures set forth in chapter 90.58 RCW; and

(iii) The amendment of the capital facilities element of a comprehensive plan that occurs concurrently with the adoption or amendment of a county or city budget.

(b) Except as otherwise provided in (a) of this subsection, all proposals shall be considered by the governing body concurrently so the cumulative effect of the various proposals can be ascertained. However, after appropriate public participation a county or city may adopt amendments or revisions to its comprehensive plan that conform with this chapter whenever an emergency exists or to resolve an appeal of a comprehensive plan filed with a growth management hearings board or with the court.

(3) Each county that designates urban growth areas under RCW 36.70A.110 shall review, at least every ten years, its designated urban growth area or areas, and the densities permitted within both the incorporated and unincorporated portions of each urban growth area. In conjunction with this review by the county, each city located within an urban growth area shall review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county

has located within each city and the unincorporated portions of the urban growth areas. The county comprehensive plan designating urban growth areas, and the densities permitted in the urban growth areas by the comprehensive plans of the county and each city located within the urban growth areas, shall be revised to accommodate the urban growth projected to occur in the county for the succeeding twenty-year period. The review required by this subsection may be combined with the review and evaluation required by RCW 36.70A.215.

(4) The department shall establish a schedule for counties and cities to take action to review and, if needed, revise their comprehensive plans and development regulations to ensure the plan and regulations comply with the requirements of this chapter. The schedule established by the department shall provide for the reviews and evaluations to be completed as follows:

(a) On or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;

(b) On or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;

(c) On or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and

(d) On or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

(5)(a) Nothing in this section precludes a county or city from conducting the review and evaluation required by this section before the time limits established in subsection (4) of this section. Counties and cities may begin this process early and may be eligible for grants from the department, subject to available funding, if they elect to do so.

(b) State agencies are encouraged to provide technical assistance to the counties and cities in the review of critical area ordinances, comprehensive plans, and development regulations.

(6) A county or city subject to the time periods in subsection (4)(a) of this section that, pursuant to an ordinance adopted by the county or city establishing a schedule for periodic review of its comprehensive plan and development regulations, has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to that review and evaluation shall be deemed to have conducted the first review required by subsection (4)(a) of this section. Subsequent review and evaluation by the county or city of its comprehensive plan and development regulations shall be conducted in accordance with the time periods established under subsection (4)(a) of this section.

(7) The requirements imposed on counties and cities under this section shall be considered "requirements of this chapter" under the terms of RCW 36.70A.040(1). Only those counties and cities in compliance with the schedules in this section shall have the requisite authority to receive grants, loans, pledges, or financial guarantees from those accounts established in RCW 43.155.050 and 70.146.030. Only those counties and cities in compliance with the schedules in this section shall receive preference for grants or loans subject to the provisions of RCW 43.17.250.

Passed the Senate March 12, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 321

[Second Substitute Senate Bill 5949]

MOTORIST INFORMATION SIGN PANELS

AN ACT Relating to erecting and maintaining motorist information sign panels; and adding a new section to chapter 47.36 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.36 RCW to read as follows:

(1) When exercising its authority to erect and maintain motorist information sign panels under RCW 47.36.310 and 47.36.320, the department shall contract with a private contractor for a term of ten years. The contractor selected by the department must be incorporated, and must maintain an office, in this state.

(2) The contractor, at no cost to the department, is solely responsible for marketing, administration, financial management, sign fabrication, installation, and maintenance and is subject to the provisions of this chapter otherwise applicable to the department. The contractor may set the market rate to be charged to businesses advertising on the motorist informational signs.

(3) A contract entered into between the department and a contractor must require the contractor to administer, fabricate, install, and maintain community historical signs authorized for placement by the department at no cost to the department.

(4) In department may set the contractual terms it deems necessary to guarantee the performance of the contract. The department shall periodically monitor the performance of the contract.

(5) In letting a contract under this section the department shall comply with purchasing guidelines adopted by the general services administration.

Passed the Senate March 13, 2002.
Passed the House March 13, 2002.
Approved by the Governor April 2, 2002.
Filed in Office of Secretary of State April 2, 2002.

CHAPTER 322

[Substitute Senate Bill 6254]

FRUIT AND VEGETABLE INSPECTION ACCOUNT

AN ACT Relating to the fruit and vegetable inspection account; amending RCW 15.17.230, 15.17.240, and 15.17.243; reenacting and amending RCW 43.79A.040; creating new sections; repealing RCW 15.17.245; and providing an effective date.

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

Sec. 1. RCW 15.17.230 and 1998 c 154 s 15 are each amended to read as follows:

For the purpose of this chapter the state shall be divided into not less than ~~((three))~~ two fruit and vegetable inspection districts ~~((to which the director may assign a district manager who shall supervise and administer regulatory and inspection affairs of the districts))~~. The director, by rule, shall establish the boundaries of the districts and may adjust the boundaries for purposes of efficiency and economy.

Sec. 2. RCW 15.17.240 and 1998 c 154 s 16 are each amended to read as follows:

~~(1) ((The district managers shall collect the fees provided for under this chapter and deposit them in the fruit and vegetable district fund in any bank in the district approved for the deposit of state funds. The fees shall be used to carry out the provisions of this chapter and no appropriation is required for disbursement from the fund. District managers shall approve payments from the fruit and vegetable inspection district funds to the fruit and vegetable inspection trust account in accordance with RCW 15.17.245. On a monthly basis, each district manager shall provide to the director a detailed account of the receipts and disbursements for the preceding month.~~

~~—(2) Assessments and other fees approved by the director or authorized by law and collected by the district managers shall be deposited in the fruit and vegetable inspection district funds and distributed to the appropriate fund or agency.))~~ The fruit and vegetable inspection account is created in the custody of the state treasurer. All fees collected under this chapter must be deposited into the account. The director may authorize expenditures from the account solely for the implementation and enforcement of this chapter and any other expenditures authorized by statute or session law and applying specifically to the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

The director shall establish and maintain an account within the fruit and vegetable inspection account for each district established under RCW 15.17.230.

(2) By August 1, 2004, and by August 1st of each even-numbered year thereafter, the director shall review the balance of each of the district accounts in the fruit and vegetable inspection account at the end of the previous fiscal year. If the balance in the district account exceeds the sum of the following: An amount equal to the total expenditures of the district served by that account for the last six months of that previous fiscal year; any budgeted capital expenditures from the account for the current fiscal year; and six hundred thousand dollars, the director shall temporarily and equally, on a percentage basis, reduce each of the fees accruing to the district account until such time that the district account has a balance equal to the amount of the total expenditures from the account for the last seven months of the previous fiscal year, at which time the fees shall be returned to the amounts before the temporary reduction. In making the reductions, the director shall attempt to reduce fees for a twelve-month period so as to apply the reductions to as many of the persons who annually pay fees for services provided by the district. The temporary fee reductions shall be initially provided through the adoption of emergency rules. The emergency and subsequent rules temporarily reducing the fees are exempt from the requirements of RCW 34.05.310 and chapter 19.85 RCW. These fees shall be reinstated through the expiration of the rules temporarily reducing them and the authority to reinstate them is hereby granted.

NEW SECTION. Sec. 3. (1) Except as provided in subsection (2) of this section, any residual balance in any fruit and vegetable district fund on the effective date of this act shall be transferred to the fruit and vegetable inspection account established in RCW 15.17.240. Any such residual balance in the district fund for district number 2, as the district is constituted by rule on January 1, 2002, shall be transferred to the district account for the district containing Yakima county. Any such residual balance in the district fund for any other district shall be transferred to the district account for the district not containing Yakima county. Any residual balance in the fruit and vegetable inspection trust account on the effective date of this act shall be transferred to the fruit and vegetable inspection account established in RCW 15.17.240 and shall be equally distributed among the district accounts.

(2) The director shall review the residual balance of each of the district funds transferred to the fruit and vegetable inspection account under subsection (1) of this section.

(a) Except as provided in (b) of this subsection, if such a residual balance in the district fund exceeds an amount equal to the total of the expenditures of the district served by that fund for the last six months of fiscal year 2002, the director of agriculture shall temporarily reduce each of the inspection fees adopted by rule that are collected for inspection services conducted in the area served by the district as it is constituted on January 1, 2002, and shall use such excess amount to provide the fee reductions. The fees shall be temporarily reduced by twelve and one-half percent for that area until the excess amount remaining is equal to an average one month's expenditures from the district fund during the six months ending June 30,

2002, at which time the fees charged shall return to the level of the fees adopted by rule. The amount equal to the average one month's expenditures shall be deposited in the district account to which other portions of the residual balance from the district fund were deposited.

(b) A portion of the amount transferred to the account from the district fund from district number three, as the district is constituted by rule on January 1, 2002, shall be used exclusively to reduce the fees charged for inspection services in the area served by the district as the district is constituted by rule on January 1, 2002. The fees shall be temporarily reduced by nine and one-half percent for that area for a period of twelve months at which time the fees charged shall return to the level of the fees adopted by rule.

Sec. 4. RCW 15.17.243 and 2001 c 92 s 1 are each amended to read as follows:

The district manager for district two as defined in WAC 16-458-075 is authorized to transfer two hundred thousand dollars from the fruit and vegetable district fund to the plant pest account within the agricultural local fund. The amount transferred is to be derived from fees collected for state inspections of tree fruits and is to be used solely for activities related to the control of *Rhagoletis pomonella* in district two. The transfer of funds shall occur by June 1, 1997. On June 30, 2003, any unexpended portion of the two hundred thousand dollars shall be ~~((returned))~~ transferred to the fruit and vegetable ~~((district fund))~~ inspection account and deposited in the district account for the district that includes Yakima county.

Sec. 5. RCW 43.79A.040 and 2001 c 201 s 4 and 2001 c 184 s 4 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the

period: The college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the basic health plan self-insurance reserve account, the Washington international exchange scholarship endowment fund, the developmental disabilities endowment trust fund, the energy account, the fair fund, the fruit and vegetable inspection account, the game farm alternative account, the grain inspection revolving fund, the juvenile accountability incentive account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, and the children's trust fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec. 6.** If fruit and vegetable inspection districts that existed on January 1, 2002, under RCW 15.17.230 are consolidated or otherwise altered during 2002, the consolidation or alternation must not result in a reduction of inspection services or the availability or quality of those services in any of the districts, but may result in a consolidation of administrative support for those services.

NEW SECTION. **Sec. 7.** RCW 15.17.245 (Fruit and vegetable inspection trust account) and 1998 c 154 s 19, 1987 c 393 s 2, 1986 c 203 s 1, 1969 ex.s. c 76 s 1, & 1961 c 11 s 15.04.100 are each repealed.

NEW SECTION. **Sec. 8.** This act takes effect July 1, 2002. However, the director of the department of agriculture and the state treasurer may take actions before July 1, 2002, to permit the creation of the fruit and vegetable inspection account and the district accounts described in RCW 15.17.240 by July 1, 2002.

Passed the Senate March 11, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 323

[Substitute Senate Bill 6409]

CONSTRUCTION DEFECT CLAIMS

AN ACT Relating to construction defect claims asserting property loss and damage; amending RCW 4.16.310, 64.34.410, and 64.34.452; adding a new section to chapter 4.16 RCW; and adding a new chapter to Title 64 RCW.

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

NEW SECTION. **Sec. 1.** The legislature finds, declares, and determines that limited changes in the law are necessary and appropriate concerning actions claiming damages, indemnity, or contribution in connection with alleged construction defects. It is the intent of the legislature that this chapter apply to these types of civil actions while preserving adequate rights and remedies for property owners who bring and maintain such actions.

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

(1) "Action" means any civil lawsuit or action in contract or tort for damages or indemnity brought against a construction professional to assert a claim, whether by complaint, counterclaim, or cross-claim, for damage or the loss of use of real or personal property caused by a defect in the construction of a residence or in the substantial remodel of a residence. "Action" does not include any civil action in tort alleging personal injury or wrongful death to a person or persons resulting from a construction defect.

(2) "Association" means an association, master association, or subassociation as defined and provided for in RCW 64.34.020(4), 64.34.276, 64.34.278, and 64.38.010(1).

(3) "Claimant" means a homeowner or association who asserts a claim against a construction professional concerning a defect in the construction of a residence or in the substantial remodel of a residence.

(4) "Construction professional" means an architect, builder, builder vendor, contractor, subcontractor, engineer, or inspector, including, but not limited to, a dealer as defined in RCW 64.34.020(12) and a declarant as defined in RCW 64.34.020(13), performing or furnishing the design, supervision, inspection, construction, or observation of the construction of any improvement to real property, whether operating as a sole proprietor, partnership, corporation, or other business entity.

(5) "Homeowner" means: (a) Any person, company, firm, partnership, corporation, or association who contracts with a construction professional for the construction, sale, or construction and sale of a residence; and (b) an "association" as defined in this section. "Homeowner" includes, but is not limited to, a subsequent purchaser of a residence from any homeowner.

(6) "Residence" means a single-family house, duplex, triplex, quadraplex, or a unit in a multiunit residential structure in which title to each individual unit is transferred to the owner under a condominium or cooperative system, and shall

include common elements as defined in RCW 64.34.020(6) and common areas as defined in RCW 64.38.010(4).

(7) "Serve" or "service" means personal service or delivery by certified mail to the last known address of the addressee.

(8) "Substantial remodel" means a remodel of a residence, for which the total cost exceeds one-half of the assessed value of the residence for property tax purposes at the time the contract for the remodel work was made.

NEW SECTION. Sec. 3. (1) In every construction defect action brought against a construction professional, the claimant shall, no later than forty-five days before filing an action, serve written notice of claim on the construction professional. The notice of claim shall state that the claimant asserts a construction defect claim against the construction professional and shall describe the claim in reasonable detail sufficient to determine the general nature of the defect.

(2) Within twenty-one days after service of the notice of claim, the construction professional shall serve a written response on the claimant by registered mail or personal service. The written response shall:

(a) Propose to inspect the residence that is the subject of the claim and to complete the inspection within a specified time frame. The proposal shall include the statement that the construction professional shall, based on the inspection, offer to remedy the defect, compromise by payment, or dispute the claim;

(b) Offer to compromise and settle the claim by monetary payment without inspection. A construction professional's offer under this subsection (2)(b) to compromise and settle a homeowner's claim may include, but is not limited to, an express offer to purchase the claimant's residence that is the subject of the claim, and to pay the claimant's reasonable relocation costs; or

(c) State that the construction professional disputes the claim and will neither remedy the construction defect nor compromise and settle the claim.

(3)(a) If the construction professional disputes the claim or does not respond to the claimant's notice of claim within the time stated in subsection (2) of this section, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(b) If the claimant rejects the inspection proposal or the settlement offer made by the construction professional pursuant to subsection (2) of this section, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the inspection proposal or settlement offer, then at anytime thereafter the construction professional may terminate the proposal or offer by serving written notice to the claimant, and the claimant may thereafter bring an action against the construction professional for the construction defect claim described in the notice of claim.

(4)(a) If the claimant elects to allow the construction professional to inspect in accordance with the construction professional's proposal pursuant to subsection (2)(a) of this section, the claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to inspect the premises and the claimed defect.

(b) Within fourteen days following completion of the inspection, the construction professional shall serve on the claimant:

(i) A written offer to remedy the construction defect at no cost to the claimant, including a report of the scope of the inspection, the findings and results of the inspection, a description of the additional construction necessary to remedy the defect described in the claim, and a timetable for the completion of such construction;

(ii) A written offer to compromise and settle the claim by monetary payment pursuant to subsection (2)(b) of this section; or

(iii) A written statement that the construction professional will not proceed further to remedy the defect.

(c) If the construction professional does not proceed further to remedy the construction defect within the agreed timetable, or if the construction professional fails to comply with the provisions of (b) of this subsection, the claimant may bring an action against the construction professional for the claim described in the notice of claim without further notice.

(d) If the claimant rejects the offer made by the construction professional pursuant to (b)(i) or (ii) of this subsection to either remedy the construction defect or to compromise and settle the claim by monetary payment, the claimant shall serve written notice of the claimant's rejection on the construction professional. After service of the rejection notice, the claimant may bring an action against the construction professional for the construction defect claim described in the notice of claim. If the construction professional has not received from the claimant, within thirty days after the claimant's receipt of the construction professional's response, either an acceptance or rejection of the offer made pursuant to (b)(i) or (ii) of this subsection, then at anytime thereafter the construction professional may terminate the offer by serving written notice to the claimant.

(5)(a) Any claimant accepting the offer of a construction professional to remedy the construction defect pursuant to subsection (4)(b)(i) of this section shall do so by serving the construction professional with a written notice of acceptance within a reasonable time period after receipt of the offer, and no later than thirty days after receipt of the offer. The claimant shall provide the construction professional and its contractors or other agents reasonable access to the claimant's residence during normal working hours to perform and complete the construction by the timetable stated in the offer.

(b) The claimant and construction professional may, by written mutual agreement, alter the extent of construction or the timetable for completion of

construction stated in the offer, including, but not limited to, repair of additional defects.

(6) Any action commenced by a claimant prior to compliance with the requirements of this section shall be subject to dismissal without prejudice, and may not be recommenced until the claimant has complied with the requirements of this section.

(7) Nothing in this section may be construed to prevent a claimant from commencing an action on the construction defect claim described in the notice of claim if the construction professional fails to perform the construction agreed upon, fails to remedy the defect, or fails to perform by the timetable agreed upon pursuant to subsection (2)(a) or (5) of this section.

(8) Prior to commencing any action alleging a construction defect, or after the dismissal of any action without prejudice pursuant to subsection (6) of this section, the claimant may amend the notice of claim to include construction defects discovered after the service of the original notice of claim, and must otherwise comply with the requirements of this section for the additional claims. The service of an amended notice of claim shall relate back to the original notice of claim for purposes of tolling statutes of limitations and repose. Claims for defects discovered after the commencement or recommencement of an action may be added to such action only after providing notice to the construction professional of the defect and allowing for response under subsection (2) of this section.

NEW SECTION. Sec. 4. (1) In every action brought against a construction professional, the claimant, including a construction professional asserting a claim against another construction professional, shall file with the court and serve on the defendant a list of known construction defects in accordance with this section.

(2) The list of known construction defects shall contain a description of the construction that the claimant alleges to be defective. The list of known construction defects shall be filed with the court and served on the defendant within thirty days after the commencement of the action or within such longer period as the court in its discretion may allow.

(3) The list of known construction defects may be amended by the claimant to identify additional construction defects as they become known to the claimant.

(4) The list of known construction defects must specify, to the extent known to the claimant, the construction professional responsible for each alleged defect identified by the claimant.

(5) If a subcontractor or supplier is added as a party to an action under this section, the party making the claim against such subcontractor or supplier shall serve on the subcontractor or supplier the list of construction defects in accordance with this section within thirty days after service of the complaint against the subcontractor or supplier or within such period as the court in its discretion may allow.

NEW SECTION. Sec. 5. (1)(a) In the event the board of directors, pursuant to RCW 64.34.304(1)(d) or 64.38.020(4), institutes an action asserting defects in

the construction of two or more residences, common elements, or common areas, this section shall apply. For purposes of this section, "action" has the same meaning as set forth in section 2 of this act.

(b) The board of directors shall substantially comply with the provisions of this section.

(2)(a) Prior to the service of the summons and complaint on any defendant with respect to an action governed by this section, the board of directors shall mail or deliver written notice of the commencement or anticipated commencement of such action to each homeowner at the last known address described in the association's records.

(b) The notice required by (a) of this subsection shall state a general description of the following:

- (i) The nature of the action and the relief sought; and
- (ii) The expenses and fees that the board of directors anticipates will be incurred in prosecuting the action.

(3) Nothing in this section may be construed to:

(a) Require the disclosure in the notice or the disclosure to a unit owner of attorney-client communications or other privileged communications;

(b) Permit the notice to serve as a basis for any person to assert the waiver of any applicable privilege or right of confidentiality resulting from, or to claim immunity in connection with, the disclosure of information in the notice; or

(c) Limit or impair the authority of the board of directors to contract for legal services, or limit or impair the ability to enforce such a contract for legal services.

NEW SECTION. **Sec. 6.** (1) The construction professional shall provide notice to each homeowner upon entering into a contract for sale, construction, or substantial remodel of a residence, of the construction professional's right to offer to cure construction defects before a homeowner may commence litigation against the construction professional. Such notice shall be conspicuous and may be included as part of the underlying contract signed by the homeowner. In the sale of a condominium unit, the requirement for delivery of such notice shall be deemed satisfied if contained in a public offering statement delivered in accordance with chapter 64.34 RCW.

(2) The notice required by this subsection shall be in substantially the following form:

CHAPTER 64.— RCW (sections 1 through 7 of this act) CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY FILE A LAWSUIT FOR DEFECTIVE CONSTRUCTION AGAINST THE SELLER OR BUILDER OF YOUR HOME. FORTY-FIVE DAYS BEFORE YOU FILE YOUR LAWSUIT, YOU MUST DELIVER TO THE SELLER OR BUILDER A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE YOUR SELLER OR BUILDER THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR

THE DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY THE BUILDER OR SELLER. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT YOUR ABILITY TO FILE A LAWSUIT.

(3) This chapter shall not preclude or bar any action if notice is not given to the homeowner as required by this section.

NEW SECTION. Sec. 7. Nothing in this chapter shall be construed to hinder or otherwise affect the employment, agency, or contractual relationship between and among homeowners and construction professionals during the process of construction or remodeling and does not preclude the termination of those relationships as allowed under current law. Nothing in this chapter shall negate or otherwise restrict a construction professional's right to access or inspection provided by law, covenant, easement, or contract.

NEW SECTION. Sec. 8. A new section is added to chapter 4.16 RCW to read as follows:

If a written notice of claim is served under section 3 of this act within the time prescribed for the filing of an action under this chapter, the statutes of limitations for construction-related claims are tolled until sixty days after the period of time during which the filing of an action is barred under section 3 of this act.

Sec. 9. RCW 4.16.310 and 1986 c 305 s 702 are each amended to read as follows:

All claims or causes of action as set forth in RCW 4.16.300 shall accrue, and the applicable statute of limitation shall begin to run only during the period within six years after substantial completion of construction, or during the period within six years after the termination of the services enumerated in RCW 4.16.300, whichever is later. The phrase "substantial completion of construction" shall mean the state of completion reached when an improvement upon real property may be used or occupied for its intended use. Any cause of action which has not accrued within six years after such substantial completion of construction, or within six years after such termination of services, whichever is later, shall be barred: **PROVIDED**, That this limitation shall not be asserted as a defense by any owner, tenant or other person in possession and control of the improvement at the time such cause of action accrues. The limitations prescribed in this section apply to all claims or causes of action as set forth in RCW 4.16.300 brought in the name or for the benefit of the state which are made or commenced after June 11, 1986.

If a written notice is filed under section 3 of this act within the time prescribed for the filing of an action under this chapter, the period of time during which the filing of an action is barred under section 3 of this act plus sixty days shall not be a part of the period limited for the commencement of an action, nor for the application of this section.

Sec. 10. RCW 64.34.410 and 1997 c 400 s 1 are each amended to read as follows:

- (1) A public offering statement shall contain the following information:
 - (a) The name and address of the condominium;
 - (b) The name and address of the declarant;
 - (c) The name and address of the management company, if any;
 - (d) The relationship of the management company to the declarant, if any;
 - (e) A list of up to the five most recent condominium projects completed by the declarant or an affiliate of the declarant within the past five years, including the names of the condominiums, their addresses, and the number of existing units in each. For the purpose of this section, a condominium is "completed" when any one unit therein has been rented or sold;
 - (f) The nature of the interest being offered for sale;
 - (g) A brief description of the permitted uses and use restrictions pertaining to the units and the common elements;
 - (h) A brief description of the restrictions, if any, on the renting or leasing of units by the declarant or other unit owners, together with the rights, if any, of the declarant to rent or lease at least a majority of units;
 - (i) The number of existing units in the condominium and the maximum number of units that may be added to the condominium;
 - (j) A list of the principal common amenities in the condominium which materially affect the value of the condominium and those that will or may be added to the condominium;
 - (k) A list of the limited common elements assigned to the units being offered for sale;
 - (l) The identification of any real property not in the condominium, the owner of which has access to any of the common elements, and a description of the terms of such access;
 - (m) The identification of any real property not in the condominium to which unit owners have access and a description of the terms of such access;
 - (n) The status of construction of the units and common elements, including estimated dates of completion if not completed;
 - (o) The estimated current common expense liability for the units being offered;
 - (p) An estimate of any payment with respect to the common expense liability for the units being offered which will be due at closing;
 - (q) The estimated current amount and purpose of any fees not included in the common expenses and charged by the declarant or the association for the use of any of the common elements;
 - (r) Any assessments which have been agreed to or are known to the declarant and which, if not paid, may constitute a lien against any units or common elements in favor of any governmental agency;

- (s) The identification of any parts of the condominium, other than the units, which any individual owner will have the responsibility for maintaining;
- (t) If the condominium involves a conversion condominium, the information required by RCW 64.34.415;
- (u) Whether timesharing is restricted or prohibited, and if restricted, a general description of such restrictions;
- (v) A list of all development rights reserved to the declarant and all special declarant rights reserved to the declarant, together with the dates such rights must terminate, and a copy of or reference by recording number to any recorded transfer of a special declarant right;
- (w) A description of any material differences in terms of furnishings, fixtures, finishes, and equipment between any model unit available to the purchaser at the time the agreement for sale is executed and the unit being offered;
- (x) Any liens on real property to be conveyed to the association required to be disclosed pursuant to RCW 64.34.435(2)(b);
- (y) A list of any physical hazards known to the declarant which particularly affect the condominium or the immediate vicinity in which the condominium is located and which are not readily ascertainable by the purchaser;
- (z) A brief description of any construction warranties to be provided to the purchaser;
- (aa) Any building code violation citations received by the declarant in connection with the condominium which have not been corrected;
- (bb) A statement of any unsatisfied judgments or pending suits against the association, a statement of the status of any pending suits material to the condominium of which the declarant has actual knowledge, and a statement of any litigation brought by an owners' association, unit owner, or governmental entity in which the declarant or any affiliate of the declarant has been a defendant, arising out of the construction, sale, or administration of any condominium within the previous five years, together with the results thereof, if known;
- (cc) Any rights of first refusal to lease or purchase any unit or any of the common elements;
- (dd) The extent to which the insurance provided by the association covers furnishings, fixtures, and equipment located in the unit;
- (ee) A notice which describes a purchaser's right to cancel the purchase agreement or extend the closing under RCW 64.34.420, including applicable time frames and procedures;
- (ff) Any reports or statements required by RCW 64.34.415 or 64.34.440(6)(a). RCW 64.34.415 shall apply to the public offering statement of a condominium in connection with which a final certificate of occupancy was issued more than sixty calendar months prior to the preparation of the public offering statement whether or not the condominium is a conversion condominium as defined in RCW 64.34.020(10);

(gg) A list of the documents which the prospective purchaser is entitled to receive from the declarant before the rescission period commences;

(hh) A notice which states: A purchaser may not rely on any representation or express warranty unless it is contained in the public offering statement or made in writing signed by the declarant or by any person identified in the public offering statement as the declarant's agent;

(ii) A notice which states: This public offering statement is only a summary of some of the significant aspects of purchasing a unit in this condominium and the condominium documents are complex, contain other important information, and create binding legal obligations. You should consider seeking the assistance of legal counsel;

(jj) Any other information and cross-references which the declarant believes will be helpful in describing the condominium to the recipients of the public offering statement, all of which may be included or not included at the option of the declarant; ~~((and))~~

(kk) A notice that addresses compliance or noncompliance with the housing for older persons act of 1995, P.L. 104-76, as enacted on December 28, 1995; and
(ll) A notice that is substantially in the form required by section 6 of this act.

(2) The public offering statement shall include copies of each of the following documents: The declaration, the survey map and plans, the articles of incorporation of the association, bylaws of the association, rules and regulations, if any, current or proposed budget for the association, and the balance sheet of the association current within ninety days if assessments have been collected for ninety days or more.

If any of the foregoing documents listed in this subsection are not available because they have not been executed, adopted, or recorded, drafts of such documents shall be provided with the public offering statement, and, before closing the sale of a unit, the purchaser shall be given copies of any material changes between the draft of the proposed documents and the final documents.

(3) The disclosures required by subsection (1)(g), (k), (s), (u), (v), and (cc) of this section shall also contain a reference to specific sections in the condominium documents which further explain the information disclosed.

(4) The disclosures required by subsection (1)(ee), (hh), ~~((and))~~ (ii), and (ll) of this section shall be located at the top of the first page of the public offering statement and be typed or printed in ten-point bold face type size.

(5) A declarant shall promptly amend the public offering statement to reflect any material change in the information required by this section.

Sec. 11. RCW 64.34.452 and 1990 c 166 s 14 are each amended to read as follows:

(1) A judicial proceeding for breach of any obligations arising under RCW 64.34.443 and 64.34.445 must be commenced within four years after the cause of action accrues: PROVIDED, That the period for commencing an action for a breach accruing pursuant to subsection (2)(b) of this section shall not expire prior

to one year after termination of the period of declarant control, if any, under RCW 64.34.308(4). Such period may not be reduced by either oral or written agreement.

(2) Subject to subsection (3) of this section, a cause of action or breach of warranty of quality, regardless of the purchaser's lack of knowledge of the breach, accrues:

(a) As to a unit, the date the purchaser to whom the warranty is first made enters into possession if a possessory interest was conveyed or the date of acceptance of the instrument of conveyance if a nonpossessory interest was conveyed; and

(b) As to each common element, at the latest of (i) the date the first unit in the condominium was conveyed to a bona fide purchaser, (ii) the date the common element was completed, or (iii) the date the common element was added to the condominium.

(3) If a warranty of quality explicitly extends to future performance or duration of any improvement or component of the condominium, the cause of action accrues at the time the breach is discovered or at the end of the period for which the warranty explicitly extends, whichever is earlier.

(4) If a written notice of claim is served under section 3 of this act within the time prescribed for the filing of an action under this chapter, the statutes of limitation in this chapter and any applicable statutes of repose for construction-related claims are tolled until sixty days after the period of time during which the filing of an action is barred under section 3 of this act.

NEW SECTION. Sec. 12. Sections 1 through 7 of this act constitute a new chapter in Title 64 RCW.

Passed the Senate March 12, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 324

[Engrossed Substitute Senate Bill 6490]
MOTOR VEHICLE THEFT

AN ACT Relating to motor vehicle theft; amending RCW 9A.56.070 and 13.40.0357; reenacting and amending RCW 9.94A.515; creating a new section; and prescribing penalties.

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

Sec. 1. RCW 9A.56.070 and 1975 1st ex.s. c 260 s 9A.56.070 are each amended to read as follows:

(1) (~~Every person who shall~~) (a) A person is guilty of taking a motor vehicle without permission in the first degree if he or she, without the permission of the owner or person entitled to possession, intentionally takes or drives away an automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, that is the property of another, and he or she:

(i) Alters the motor vehicle for the purpose of changing its appearance or primary identification, including obscuring, removing, or changing the manufacturer's serial number or the vehicle identification number plates;

(ii) Removes, or participates in the removal of, parts from the motor vehicle with the intent to sell the parts;

(iii) Exports, or attempts to export, the motor vehicle across state lines or out of the United States for profit;

(iv) Intends to sell the motor vehicle; or

(v) Is engaged in a conspiracy and the central object of the conspiratorial agreement is the theft of motor vehicles for sale to others for profit.

(b) Taking a motor vehicle without permission in the first degree is a class B felony.

(2)(a) A person is guilty of taking a motor vehicle without permission in the second degree if he or she, without the permission of the owner or person entitled to ~~((the))~~ possession ~~((thereof))~~, intentionally takes or drives away any automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, that is the property of another, ~~((shall be deemed guilty of a felony, and every person))~~ or he or she voluntarily ~~((riding))~~ rides in or upon ~~((said))~~ the automobile or motor vehicle with knowledge of the fact that the ~~((same))~~ automobile or motor vehicle was unlawfully taken ~~((shall be equally guilty with the person taking or driving said automobile or motor vehicle and shall be deemed guilty of taking a motor vehicle without permission))~~.

~~((2))~~ (b) Taking a motor vehicle without permission in the second degree is a class C felony.

Sec. 2. RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder I (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040)

- Rape of a Child 1 (RCW 9A.44.073)
- XI Manslaughter 1 (RCW 9A.32.060)
- Rape 2 (RCW 9A.44.050)
- Rape of a Child 2 (RCW 9A.44.076)
- X Child Molestation 1 (RCW 9A.44.083)
- Indecent Liberties (with forcible compulsion)
(RCW 9A.44.100(1)(a))
- Kidnapping 1 (RCW 9A.40.020)
- Leading Organized Crime (RCW
9A.82.060(1)(a))
- Malicious explosion 3 (RCW 70.74.280(3))
- Manufacture of methamphetamine (RCW
69.50.401(a)(1)(ii))
- Over 18 and deliver heroin, methamphetamine,
a narcotic from Schedule I or II, or
flunitrazepam from Schedule IV to
someone under 18 (RCW 69.50.406)
- Sexually Violent Predator Escape (RCW
9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
- Controlled Substance Homicide (RCW
69.50.415)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the
influence of intoxicating liquor or any
drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW
9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW
70.74.270(2))
- Over 18 and deliver narcotic from Schedule III,
IV, or V or a nonnarcotic, except
flunitrazepam or methamphetamine, from
Schedule I-V to someone under 18 and 3
years junior (RCW 69.50.406)
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the
influence of intoxicating liquor or any
drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)

- Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Theft of Anhydrous Ammonia (RCW 69.55.010)
- Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII
 - Burglary 1 (RCW 9A.52.020)
 - Child Molestation 2 (RCW 9A.44.086)
 - Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
 - Drive-by Shooting (RCW 9A.36.045)
 - Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
 - Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
 - Introducing Contraband I (RCW 9A.76.140)
 - Involving a minor in drug dealing (RCW 69.50.401(f))
 - Malicious placement of an explosive 3 (RCW 70.74.270(3))

- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1)(a))
- Use of a Machine Gun in Commission of a Felony (RCW 9.41.225)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- VI Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
- Bribery (RCW 9A.68.010)
- Incest 1 (RCW 9A.64.020(1))
- Intimidating a Judge (RCW 9A.72.160)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Anhydrous Ammonia (RCW 69.55.020)
- V Abandonment of dependent person 1 (RCW 9A.42.060)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
- Child Molestation 3 (RCW 9A.44.089)
- Criminal Mistreatment 1 (RCW 9A.42.020)
- Custodial Sexual Misconduct 1 (RCW 9A.44.160)
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300,

- 26.10.220, 26.26.138, 26.50.110,
26.52.070, or 74.34.145)
- Extortion 1 (RCW 9A.56.120)
- Extortionate Extension of Credit (RCW
9A.82.020)
- Extortionate Means to Collect Extensions of
Credit (RCW 9A.82.040)
- Incest 2 (RCW 9A.64.020(2))
- Kidnapping 2 (RCW 9A.40.030)
- Perjury 1 (RCW 9A.72.020)
- Persistent prison misbehavior (RCW 9.94.070)
- Possession of a Stolen Firearm (RCW
9A.56.310)
- Rape 3 (RCW 9A.44.060)
- Rendering Criminal Assistance 1 (RCW
9A.76.070)
- Sexual Misconduct with a Minor 1 (RCW
9A.44.093)
- Sexually Violating Human Remains (RCW
9A.44.105)
- Stalking (RCW 9A.46.110)
- Taking Motor Vehicle Without Permission 1
(RCW 9A.56.070(1))
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness
(RCW 9A.72.090, 9A.72.100)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident
(RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age
Fourteen (subsequent sex offense) (RCW
9A.88.010)
- Influencing Outcome of Sporting Event (RCW
9A.82.070)
- Knowingly Trafficking in Stolen Property
(RCW 9A.82.050(2))
- Malicious Harassment (RCW 9A.36.080)

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))

Residential Burglary (RCW 9A.52.025)

Robbery 2 (RCW 9A.56.210)

Theft of Livestock 1 (RCW 9A.56.080)

Threats to Bomb (RCW 9.61.160)

Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))

Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)

Willful Failure to Return from Furlough (RCW 72.66.060)

III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (RCW 9A.36.031)

Assault of a Child 3 (RCW 9A.36.140)

Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))

Burglary 2 (RCW 9A.52.030)

Communication with a Minor for Immoral Purposes (RCW 9.68A.090)

Criminal Gang Intimidation (RCW 9A.46.120)

Criminal Mistreatment 2 (RCW 9A.42.030)

Custodial Assault (RCW 9A.36.100)

Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))

Escape 2 (RCW 9A.76.120)

Extortion 2 (RCW 9A.56.130)

Harassment (RCW 9A.46.020)

Intimidating a Public Servant (RCW 9A.76.180)

Introducing Contraband 2 (RCW 9A.76.150)

Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))

Malicious Injury to Railroad Property (RCW 81.60.070)

- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Perjury 2 (RCW 9A.72.030)
- Possession of Incendiary Device (RCW 9.40.120)
- Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Securities Act violation (RCW 21.20.400)
- Tampering with a Witness (RCW 9A.72.120)
- Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
- Theft of Livestock 2 (RCW 9A.56.080)
- Unlawful Imprisonment (RCW 9A.40.040)
- Unlawful possession of firearm in the second degree (RCW 9.41.040(1)(b))
- Unlawful Use of Building for Drug Purposes (RCW 69.53.010)
- Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- II Computer Trespass I (RCW 9A.52.110)
- Counterfeiting (RCW 9.16.035(3))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Escape from Community Custody (RCW 72.09.310)
- Health Care False Claims (RCW 48.80.030)
- Identity Theft 2 (RCW 9.35.020(2)(b))
- Improperly Obtaining Financial Information (RCW 9.35.010)
- Malicious Mischief 1 (RCW 9A.48.070)

- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))
- Trafficking in Insurance Claims (RCW 48.30A.015)
- Unlawful Practice of Law (RCW 2.48.180)
- Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Forgery (RCW 9A.60.020)
- Malicious Mischief 2 (RCW 9A.48.080)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam) (RCW 69.50.401(d))
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Reckless Burning 1 (RCW 9A.48.040)
- Taking Motor Vehicle Without Permission 2 (RCW 9A.56.070(2))
- Theft 2 (RCW 9A.56.040)
- Theft of Rental, Leased, or Lease-purchased Property (valued at two hundred fifty dollars or more but less than one thousand five hundred dollars) (RCW 9A.56.096(4))

Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)

Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))

Vehicle Prowl 1 (RCW 9A.52.095)

Sec. 3. RCW 13.40.0357 and 2001 c 217 s 13 are each amended to read as follows:

DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION		JUVENILE DISPOSITION
OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION

.....

Arson and Malicious Mischief

A	Arson 1 (9A.48.020)	B+
B	Arson 2 (9A.48.030)	C
C	Reckless Burning 1 (9A.48.040)	D
D	Reckless Burning 2 (9A.48.050)	E
B	Malicious Mischief 1 (9A.48.070)	C
C	Malicious Mischief 2 (9A.48.080)	D
D	Malicious Mischief 3 (<\$50 is E class) (9A.48.090)	E
E	Tampering with Fire Alarm Apparatus (9.40.100)	E
A	Possession of Incendiary Device (9.40.120)	B+

Assault and Other Crimes Involving Physical Harm

A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
B+	Drive-By Shooting (9A.36.045)	C+
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+

Burglary and Trespass

B+	Burglary 1 (9A.52.020)	C+
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B	Residential Burglary (9A.52.025)	C
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
C	Vehicle Prowling 1 (9A.52.095)	D
D	Vehicle Prowling 2 (9A.52.100)	E
	Drugs	
E	Possession/Consumption of Alcohol (66.44.270)	E
C	Illegally Obtaining Legend Drug (69.41.020)	D
C+	Sale, Delivery, Possession of Legend Drug with Intent to Sell (69.41.030)	D+
E	Possession of Legend Drug (69.41.030)	E
B+	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Sale (69.50.401(a)(1) (i) or (ii))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(I)(iii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	Unlawful Inhalation (9.47A.020)	E
B	Violation of Uniform Controlled Substances Act - Narcotic, Methamphetamine, or Flunitrazepam Counterfeit Substances (69.50.401(b)(1) (i) or (ii))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (iii), (iv), (v))	C

C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
Firearms and Weapons		
B	Theft of Firearm (9A.56.300)	C
B	Possession of Stolen Firearm (9A.56.310)	C
E	Carrying Loaded Pistol Without Permit (9.41.050)	E
C	Possession of Firearms by Minor (<18) (9.41.040(1)(b)(iii))	C
D+	Possession of Dangerous Weapon (9.41.250)	E
D	Intimidating Another Person by use of Weapon (9.41.270)	E
Homicide		
A+	Murder 1 (9A.32.030)	A
A+	Murder 2 (9A.32.050)	B+
B+	Manslaughter 1 (9A.32.060)	C+
C+	Manslaughter 2 (9A.32.070)	D+
B+	Vehicular Homicide (46.61.520)	C+
Kidnapping		
A	Kidnap 1 (9A.40.020)	B+
B+	Kidnap 2 (9A.40.030)	C+
C+	Unlawful Imprisonment (9A.40.040)	D+
Obstructing Governmental Operation		
D	Obstructing a Law Enforcement Officer (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E

B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
	Public Disturbance	
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E
E	Failure to Disperse (9A.84.020)	E
E	Disorderly Conduct (9A.84.030)	E
	Sex Crimes	
A	Rape 1 (9A.44.040)	B+
A-	Rape 2 (9A.44.050)	B+
C+	Rape 3 (9A.44.060)	D+
A-	Rape of a Child 1 (9A.44.073)	B+
B+	Rape of a Child 2 (9A.44.076)	C+
B	Incest 1 (9A.64.020(1))	C
C	Incest 2 (9A.64.020(2))	D
D+	Indecent Exposure (Victim <14) (9A.88.010)	E
E	Indecent Exposure (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
A-	Child Molestation 1 (9A.44.083)	B+
B	Child Molestation 2 (9A.44.086)	C+
	Theft, Robbery, Extortion, and Forgery	
B	Theft 1 (9A.56.030)	C
C	Theft 2 (9A.56.040)	D
D	Theft 3 (9A.56.050)	E
B	Theft of Livestock (9A.56.080)	C
C	Forgery (9A.60.020)	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
C	Identity Theft 1 (9.35.020(2)(a))	D
D	Identity Theft 2 (9.35.020(2)(b))	E

D	Improperly Obtaining Financial Information (((9.35.010))) <u>(9.35.010)</u>	E
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without ((Owner's)) Permission <u>1 and 2</u> (9A.56.070 <u>(1) and (2)</u>)	D
Motor Vehicle Related Crimes		
E	Driving Without a License (46.20.005)	E
B+	Hit and Run - Death (46.52.020(4)(a))	C+
C	Hit and Run - Injury (46.52.020(4)(b))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.502 and 46.61.504)	E
Other		
B	Bomb Threat (9.61.160)	C
C	Escape 1' (9A.76.110)	C
C	Escape 2' (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
E	Obscene, Harassing, Etc., Phone Calls (9.61.230)	E
A	Other Offense Equivalent to an Adult Class A Felony	B+
B	Other Offense Equivalent to an Adult Class B Felony	C
C	Other Offense Equivalent to an Adult Class C Felony	D

D	Other Offense Equivalent to an Adult Gross Misdemeanor	E
E	Other Offense Equivalent to an Adult Misdemeanor	E
V	Violation of Order of Restitution, Community Supervision, or Confinement (13.40.200) ²	V

¹Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

- 1st escape or attempted escape during 12-month period - 4 weeks confinement
- 2nd escape or attempted escape during 12-month period - 8 weeks confinement
- 3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

²If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

JUVENILE SENTENCING STANDARDS

This schedule must be used for juvenile offenders. The court may select sentencing option A, B, or C.

**OPTION A
JUVENILE OFFENDER SENTENCING GRID
STANDARD RANGE**

		<hr/>			
	A+	180 WEEKS TO AGE 21 YEARS			
		<hr/>			
	A	103 WEEKS TO 129 WEEKS			
		<hr/>			
	A-	15-36 WEEKS EXCEPT 30-40 WEEKS FOR 15-17 YEAR OLDS	 	 	
		<hr/>			
Current Offense Category	B+	15-36 WEEKS	 	 	
		<hr/>			
	B	LOCAL SANCTIONS (LS)	 	 	
		<hr/>			
	C+	LS	 	 	
		<hr/>			
	C	LS	 	 	
		<hr/>			
		Local Sanctions:			

		0 to 30 Days		
D+	LS	0 to 12 Months Community Supervision		
		0 to 150 Hours Community Service		
D	LS	\$0 to \$500 Fine		
E	LS			
		0	1	
		2	3	
		4 or more		
		PRIOR ADJUDICATIONS		

NOTE: References in the grid to days or weeks mean periods of confinement.

(1) The vertical axis of the grid is the current offense category. The current offense category is determined by the offense of adjudication.

(2) The horizontal axis of the grid is the number of prior adjudications included in the juvenile’s criminal history. Each prior felony adjudication shall count as one point. Each prior violation, misdemeanor, and gross misdemeanor adjudication shall count as 1/4 point. Fractional points shall be rounded down.

(3) The standard range disposition for each offense is determined by the intersection of the column defined by the prior adjudications and the row defined by the current offense category.

(4) RCW 13.40.180 applies if the offender is being sentenced for more than one offense.

(5) A current offense that is a violation is equivalent to an offense category of E. However, a disposition for a violation shall not include confinement.

OR

OPTION B

CHEMICAL DEPENDENCY DISPOSITION ALTERNATIVE

If the juvenile offender is subject to a standard range disposition of local sanctions or 15 to 36 weeks of confinement and has not committed an A- or B+ offense, the court may impose a disposition under RCW 13.40.160(4) and 13.40.165.

OR

OPTION C

MANIFEST INJUSTICE

If the court determines that a disposition under option A or B would effectuate a manifest injustice, the court shall impose a disposition outside the standard range under RCW 13.40.160(2).

NEW SECTION. Sec. 4. The sentencing guidelines commission shall study the impact of the sentencing changes in this act upon the incidence of the crime of taking a motor vehicle without permission. By December 2004, the commission shall submit a report to the governor and the legislature. The report shall address:

(1) Whether the creation of the crime of taking a motor vehicle without permission in the first degree and the increased penalties for that new crime have

resulted in a reduction in the number of convictions for taking a motor vehicle without permission in the first or second degree; and

(2) Whether there are other actions, either civil or criminal, that could have the effect of further decreasing the incidence of these crimes, including but not limited to: The revocation of driving privileges, double scoring of prior convictions, or increasing penalties for juveniles.

Passed the Senate March 11, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 325

[Senate Bill 6591]

TOBACCO PRODUCTS TAX

AN ACT Relating to revising the tobacco products tax by imposing the tax upon those persons who acquire tobacco products for resale from persons who are immune from state tax; amending RCW 82.26.010, 82.26.020, 82.26.025, and 82.26.030; adding a new section to chapter 82.26 RCW; and providing an effective date.

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

Sec. 1. RCW 82.26.010 and 1995 c 278 s 16 are each amended to read as follows:

As used in this chapter:

(1) "Tobacco products" means cigars, cheroots, stogies, periques, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco, snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking, but shall not include cigarettes as defined in RCW 82.24.010;

(2) "Manufacturer" means a person who manufactures and sells tobacco products;

(3) "Distributor" means (a) any person engaged in the business of selling tobacco products in this state who brings, or causes to be brought, into this state from without the state any tobacco products for sale, (b) any person who makes, manufactures, or fabricates tobacco products in this state for sale in this state, (c) any person engaged in the business of selling tobacco products without this state who ships or transports tobacco products to retailers in this state, to be sold by those retailers, (d) any person engaged in the business of selling tobacco products in this state who handles for sale any tobacco products that are within this state but upon which tax has not been imposed;

(4) "Subjobber" means any person, other than a manufacturer or distributor, who buys tobacco products from a distributor and sells them to persons other than the ultimate consumers;

(5) "Retailer" means any person engaged in the business of selling tobacco products to ultimate consumers;

(6) "Sale" means any transfer, exchange, or barter, in any manner or by any means whatsoever, for a consideration, and includes and means all sales made by any person. It includes a gift by a person engaged in the business of selling tobacco products, for advertising, as a means of evading the provisions of this chapter, or for any other purposes whatsoever;

(7) "Wholesale sales price" means the established price for which a manufacturer sells a tobacco product to a distributor, exclusive of any discount or other reduction;

(8) "Business" means any trade, occupation, activity, or enterprise engaged in for the purpose of selling or distributing tobacco products in this state;

(9) "Place of business" means any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

(10) "Retail outlet" means each place of business from which tobacco products are sold to consumers;

(11) "Department" means the state department of revenue;

(12) "Person" means any individual, receiver, administrator, executor, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, the state and its departments and institutions, political subdivision of the state of Washington, corporation, limited liability company, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit, or otherwise. The term excludes any person immune from state taxation, including the United States or its instrumentalities, and federally recognized Indian tribes and enrolled tribal members, conducting business within Indian country;

(13) "Indian country" means the same as defined in chapter 82.24 RCW.

Sec. 2. RCW 82.26.020 and 1993 c 492 s 309 are each amended to read as follows:

(1) There is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of forty-five percent of the wholesale sales price of such tobacco products.

(2) Taxes under this section shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, ~~((or))~~ (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(3) An additional tax is imposed equal to seven percent multiplied by the tax payable under subsection (1) of this section.

(4) An additional tax is imposed equal to ten percent of the wholesale sales price of tobacco products. The moneys collected under this subsection shall be deposited in the health services account created under RCW 43.72.900.

Sec. 3. RCW 82.26.025 and 1999 c 309 s 926 are each amended to read as follows:

(1) In addition to the taxes imposed under RCW 82.26.020, there is levied and there shall be collected a tax upon the sale, use, consumption, handling, or distribution of all tobacco products in this state at the rate of sixteen and three-fourths percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, or fabricates tobacco products in this state for sale in this state, ~~((or))~~ (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(2) The moneys collected under this section shall be deposited as follows:

(a) For the period ending July 1, 1999, in the water quality account under RCW 70.146.030;

(b) For the period beginning July 1, 1999, through June 30, 2001, fifty percent into the violence reduction and drug enforcement account under RCW 69.50.520 and fifty percent into the salmon recovery account;

(c) For the period beginning July 1, 2001, through June 30, 2021, into the water quality account under RCW 70.146.030; and

(d) For the period beginning July 1, 2021, in the general fund.

Sec. 4. RCW 82.26.030 and 1961 c 15 s 82.26.030 are each amended to read as follows:

It is the intent and purpose of this chapter to levy a tax on all tobacco products sold, used, consumed, handled, or distributed within this state and to collect the tax from the distributor as defined in RCW 82.26.010. It is the further intent and purpose of this chapter to impose the tax once, and only once, on all tobacco products for sale in this state, but nothing in this chapter shall be construed to exempt any person taxable under any other law or under any other tax imposed under Title 82 RCW.

NEW SECTION. **Sec. 5.** A new section is added to chapter 82.26 RCW to read as follows:

(1) The department shall by rule establish the invoice detail required under RCW 82.26.060 for a distributor under RCW 82.26.010(3)(d) and for those invoices required to be provided to retailers under RCW 82.26.070.

(2) If a retailer fails to keep invoices as required under chapter 82.32 RCW, the retailer is liable for the tax owed on any uninvoiced tobacco products but not penalties and interest, except as provided in subsection (3) of this section.

(3) If the department finds that the nonpayment of tax by the retailer was willful or if in the case of a second or plural nonpayment of tax by the retailer, penalties and interest shall be assessed in accordance with chapter 82.32 RCW.

NEW SECTION. **Sec. 6.** This act takes effect July 1, 2002.

Passed the Senate March 14, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 326

[Senate Bill 6709]

SHORT-TERM FOSTER CARE—WORKING GROUP

AN ACT Relating to coordinated service and education planning for children in out-of-home care; creating new sections; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** (1) Within existing resources, the department of social and health services, in cooperation with the office of the superintendent of public instruction, shall convene a working group to prepare a plan for the legislature which addresses educational stability and continuity for school-age children who enter into short term foster care. The working group shall be comprised of representatives from:

- (a) The children’s administration of the department of social and health services;
- (b) The special education, transportation, and apportionment divisions of the office of the superintendent of public instruction;
- (c) The Washington state institute for public policy;
- (d) School districts;
- (e) Organizations that regularly advocate for foster children;
- (f) Foster parents; and
- (g) Other individuals with related expertise as deemed appropriate by the working group.

(2)(a) The working group shall develop a plan for assuring that the best interests of the child are a primary consideration in the school placement of a child in short-term foster care. The plan must:

- (i) Determine the current status of school placement for children placed in short-term foster care;
- (ii) Identify options and possible funding sources from existing resources which could be made available to assure that children placed in short-term foster care are able to remain in the school where they were enrolled prior to placement;
- (iii) Submit recommendations to the legislature by November 1, 2002, to assure the best interest of the child receives primary consideration in school placement decisions.

(b) The plan shall be developed within existing resources.

NEW SECTION. Sec. 2. (1) The Nooksack Valley and Mount Vernon school districts shall implement a pilot project within existing resources to assist school-age children in foster care fewer than seventy-five days to continue attending the school where they were enrolled before entering foster care. The pilot project shall be implemented as provided in this section no later than April 30, 2002, and shall conclude June 30, 2003. Data from the pilot project shall be compiled and submitted to the working group established in section 1 of this act no later than July 30, 2002, and periodically thereafter.

(2) For the purposes of the pilot project in the two school districts, the department of social and health services and the school districts shall, as appropriate, undertake the following activities:

(a) A school-age child who enters foster care on or after April 30, 2002, shall, unless it is determined to be not in the best interest of the child, continue attending the school where she or he was enrolled before entering foster care, notwithstanding the physical location of the child's principal abode. The best interest of the child determination shall be made at the seventy-two hour shelter care hearing, and reviewed at any subsequent shelter care hearing.

(b) The department of social and health services, the school the child was attending prior to entering foster care, and the school that serves the child's foster home shall negotiate a plan for transporting the child to the school the child was attending prior to entering foster care. The department of social and health services shall not be responsible for the cost of transportation of the children in the pilot project.

(c) If the department of social and health services places a child in foster care, and the child does not continue to attend the school the child was attending prior to entering foster care, the department shall notify the school about the change.

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

Passed the Senate March 11, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 327

[Engrossed Senate Bill 6726]

DAIRY FARMS—COMPLAINTS

AN ACT Relating to complaints against dairy farms; and amending RCW 90.64.030.

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

Sec. 1. RCW 90.64.030 and 1998 c 262 s 11 are each amended to read as follows:

(1) Under the inspection program established in RCW 90.64.023, the department may investigate a dairy farm to determine whether the operation is discharging pollutants or has a record of discharging pollutants into surface or ground waters of the state. Upon concluding an investigation, the department shall make a written report of its findings, including the results of any water quality measurements, photographs, or other pertinent information, and provide a copy of the report to the dairy producer within twenty days of the investigation.

(2) The department shall investigate a written complaint filed with the department within three working days and shall make a written report of its findings including the results of any water quality measurements, photographs, or other pertinent information. Within twenty days of receiving a written complaint, a copy of the findings shall be provided to the dairy producer subject to the complaint ((within twenty days)), and to the complainant if the person gave his or her name and address to the department at the time the complaint was filed.

(3) The department may consider past complaints against the same dairy farm from the same person and the results of its previous inspections, and has the discretion to decide whether to conduct an inspection if:

(a) The same or a similar complaint or complaints have been filed against the same dairy farm within the immediately preceding six-month period; and

(b) The department made a determination that the activity that was the subject of the prior complaint was not a violation.

(4) If the decision of the department is not to conduct an inspection, it shall document the decision and the reasons for the decision within twenty days. The department shall provide the decision to the complainant if the name and address were provided to the department, and to the dairy producer subject to the complaint, and the department shall place the decision in the department's administrative records.

(5) The report of findings of any inspection conducted as the result of either an oral or a written complaint shall be placed in the department's administrative records. Only findings of violations shall be entered into the data base identified in RCW 90.64.130.

~~((3))~~ (6) A dairy farm that is determined to be a significant contributor of pollution based on actual water quality tests, photographs, or other pertinent information is subject to the provisions of this chapter and to the enforcement provisions of chapters 43.05 and 90.48 RCW, including civil penalties levied under RCW 90.48.144.

~~((4))~~ (7) If the department determines that an unresolved water quality problem from a dairy farm requires immediate corrective action, the department shall notify the producer and the district in which the problem is located. When corrective actions are required to address such unresolved water quality problems, the department shall provide copies of all final dairy farm inspection reports and

documentation of all formal regulatory and enforcement actions taken by the department against that particular dairy farm to the local conservation district and to the appropriate dairy farm within twenty days.

~~((5))~~ (8) For a violation of water quality laws that is a first offense for a dairy producer, the penalty may be waived to allow the producer to come into compliance with water quality laws. The department shall record all legitimate violations and subsequent enforcement actions.

~~((6))~~ (9) A discharge, including a storm water discharge, to surface waters of the state shall not be considered a violation of this chapter, chapter 90.48 RCW, or chapter 173-201A WAC, and shall therefore not be enforceable by the department of ecology or a third party, if at the time of the discharge, a violation is not occurring under RCW 90.64.010(18). In addition, a dairy producer shall not be held liable for violations of this chapter, chapter 90.48 RCW, chapter 173-201A WAC, or the federal clean water act due to the discharge of dairy nutrients to waters of the state resulting from spreading these materials on lands other than where the nutrients were generated, when the nutrients are spread by persons other than the dairy producer or the dairy producer's agent.

~~((7))~~ (10) As provided under RCW 7.48.305, agricultural activities associated with the management of dairy nutrients are presumed to be reasonable and shall not be found to constitute a nuisance unless the activity has a substantial adverse effect on public health and safety.

~~((8))~~ (11) This section specifically acknowledges that if a holder of a general or individual national pollutant discharge elimination system permit complies with the permit and the dairy nutrient management plan conditions for appropriate land application practices, the permit provides compliance with the federal clean water act and acts as a shield against citizen or agency enforcement for any additions of pollutants to waters of the state or of the United States as authorized by the permit.

~~((9))~~ (12) A dairy producer who fails to have an approved dairy nutrient management plan by July 1, 2002, or a certified dairy nutrient management plan by December 31, 2003, and for which no appeals have been filed with the pollution control hearings board, is in violation of this chapter. Each month beyond these deadlines that a dairy producer is out of compliance with the requirement for either plan approval or plan certification shall be considered separate violations of chapter 90.64 RCW that may be subject to penalties. Such penalties may not exceed one hundred dollars per month for each violation up to a combined total of five thousand dollars. Failure to register as required in RCW 90.64.017 shall subject a dairy producer to a maximum penalty of one hundred dollars. Penalties shall be levied by the department.

Passed the Senate February 18, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 328

[House Bill 1460]

SAFETY BELT LAWS

AN ACT Relating to enforcement of safety belt laws; amending RCW 46.61.688 and 46.61.688; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 46.61.688 and 1990 c 250 s 58 are each amended to read as follows:

(1) For the purposes of this section, the term "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(c) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

(d) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2) This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in federal motor vehicle safety standard 208. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by federal motor vehicle safety standard 208 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all passengers under the age of sixteen years are either wearing a safety belt assembly or are securely fastened into an approved child restraint device.

(5) A person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) ~~((Enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of Title 46 RCW or an equivalent local ordinance or some other offense.~~

~~—(8))~~ This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

~~((9))~~ (8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

Sec. 2. RCW 46.61.688 and 2000 c 190 s 3 are each amended to read as follows:

(1) For the purposes of this section, the term "motor vehicle" includes:

(a) "Buses," meaning motor vehicles with motive power, except trailers, designed to carry more than ten passengers;

(b) "Multipurpose passenger vehicles," meaning motor vehicles with motive power, except trailers, designed to carry ten persons or less that are constructed either on a truck chassis or with special features for occasional off-road operation;

(c) "Passenger cars," meaning motor vehicles with motive power, except multipurpose passenger vehicles, motorcycles, or trailers, designed for carrying ten passengers or less; and

(d) "Trucks," meaning motor vehicles with motive power, except trailers, designed primarily for the transportation of property.

(2) This section only applies to motor vehicles that meet the manual seat belt safety standards as set forth in federal motor vehicle safety standard 208. This section does not apply to a vehicle occupant for whom no safety belt is available when all designated seating positions as required by federal motor vehicle safety standard 208 are occupied.

(3) Every person sixteen years of age or older operating or riding in a motor vehicle shall wear the safety belt assembly in a properly adjusted and securely fastened manner.

(4) No person may operate a motor vehicle unless all child passengers under the age of sixteen years are either: (a) Wearing a safety belt assembly or (b) are securely fastened into an approved child restraint device.

(5) A person violating this section shall be issued a notice of traffic infraction under chapter 46.63 RCW. A finding that a person has committed a traffic infraction under this section shall be contained in the driver's abstract but shall not be available to insurance companies or employers.

(6) Failure to comply with the requirements of this section does not constitute negligence, nor may failure to wear a safety belt assembly be admissible as evidence of negligence in any civil action.

(7) ~~((Except for subsection (4)(b) of this section, which must be enforced as a primary action, enforcement of this section by law enforcement officers may be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of Title 46 RCW or an equivalent local ordinance or some other offense:~~

—(8)) This section does not apply to an operator or passenger who possesses written verification from a licensed physician that the operator or passenger is unable to wear a safety belt for physical or medical reasons.

((9)) (8) The state patrol may adopt rules exempting operators or occupants of farm vehicles, construction equipment, and vehicles that are required to make frequent stops from the requirement of wearing safety belts.

NEW SECTION. **Sec. 3.** Section 1 of this act expires July 1, 2002.

NEW SECTION. **Sec. 4.** Section 2 of this act takes effect July 1, 2002.

Passed the House February 14, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 2, 2002.

Filed in Office of Secretary of State April 2, 2002.

CHAPTER 329

[Engrossed House Bill 2993]

WATER POLICY

AN ACT Relating to water policy; amending RCW 90.46.010, 90.46.030, 90.46.130, 90.38.020, 90.42.040, 90.42.080, and 90.03.370; adding a new section to chapter 90.54 RCW; adding a new section to chapter 90.03 RCW; adding a new section to chapter 90.46 RCW; adding a new section to chapter 43.155 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 90.54 RCW to read as follows:

The legislature recognizes the critical importance of providing and securing sufficient water to meet the needs of people, farms, and fish. The legislature finds that an effective way to meet the water needs of people, farms, and fish is through strategies developed and implemented at the local watershed level. The objectives of these strategies are to supply water in sufficient quantities to satisfy the following three water resource objectives:

- (1) Providing sufficient water for residential, commercial, and industrial needs;
- (2) Providing sufficient water for productive fish populations; and
- (3) Providing sufficient water for productive agriculture.

The legislature affirms its intent to provide continued support for watershed strategies and provides the tools in this bill to assist local watersheds in meeting these objectives.

NEW SECTION. **Sec. 2.** A new section is added to chapter 90.03 RCW to read as follows:

- (1) The department shall, through a network of water masters appointed under this chapter, stream patrollers appointed under chapter 90.08 RCW, and other assigned compliance staff to the extent such a network is funded, achieve

compliance with the water laws and rules of the state of Washington in the following sequence:

(a) The department shall prepare and distribute technical and educational information to the general public to assist the public in complying with the requirements of their water rights and applicable water laws;

(b) When the department determines that a violation has occurred or is about to occur, it shall first attempt to achieve voluntary compliance. As part of this first response, the department shall offer information and technical assistance to the person in writing identifying one or more means to accomplish the person's purposes within the framework of the law; and

(c) If education and technical assistance do not achieve compliance the department shall issue a notice of violation, a formal administrative order under RCW 43.27A.190, or assess penalties under RCW 90.03.600 unless the noncompliance is corrected expeditiously or the department determines no impairment or harm.

(2) Nothing in the section is intended to prevent the department of ecology from taking immediate action to cause a violation to be ceased immediately if in the opinion of the department the nature of the violation is causing harm to other water rights or to public resources.

(3) The department of ecology shall to the extent practicable station its compliance personnel within the watershed communities they serve. To the extent practicable, compliance personnel shall be distributed evenly among the regions of the state.

Sec. 3. RCW 90.46.010 and 2001 c 69 s 2 are each amended to read as follows:

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

(1) "Greywater" means wastewater having the consistency and strength of residential domestic type wastewater. Greywater includes wastewater from sinks, showers, and laundry fixtures, but does not include toilet or urinal waters.

(2) "Land application" means application of treated effluent for purposes of irrigation or landscape enhancement for residential, business, and governmental purposes.

(3) "Person" means any state, individual, public or private corporation, political subdivision, governmental subdivision, governmental agency, municipality, copartnership, association, firm, trust estate, or any other legal entity whatever.

(4) "Reclaimed water" means effluent derived in any part from sewage from a wastewater treatment system that has been adequately and reliably treated, so that as a result of that treatment, it is suitable for a beneficial use or a controlled use that would not otherwise occur and is no longer considered wastewater.

(5) "Sewage" means water-carried human wastes from residences, buildings, industrial and commercial establishments, or other places, together with such

ground water infiltration, surface waters, or industrial wastewater as may be present.

(6) "User" means any person who uses reclaimed water.

(7) "Wastewater" means water and wastes discharged from homes, businesses, and industry to the sewer system.

(8) "Beneficial use" means the use of reclaimed water, that has been transported from the point of production to the point of use without an intervening discharge to the waters of the state, for a beneficial purpose.

(9) "Direct recharge" means the controlled subsurface addition of water directly to the ground water basin that results in the replenishment of ground water.

(10) "Ground water recharge criteria" means the contaminant criteria found in the drinking water quality standards adopted by the state board of health pursuant to chapter 43.20 RCW and the department of health pursuant to chapter 70.119A RCW.

(11) "Planned ground water recharge project" means any reclaimed water project designed for the purpose of recharging ground water, via direct recharge or surface percolation.

(12) "Reclamation criteria" means the criteria set forth in the water reclamation and reuse interim standards and subsequent revisions adopted by the department of ecology and the department of health.

(13) "Streamflow augmentation" means the discharge of reclaimed water to rivers and streams of the state or other surface water bodies, but not wetlands.

(14) "Surface percolation" means the controlled application of water to the ground surface for the purpose of replenishing ground water.

(15) "Wetland or wetlands" means areas that are inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands regulated under this chapter shall be delineated in accordance with the manual adopted by the department of ecology pursuant to RCW 90.58.380.

(16) "Constructed beneficial use wetlands" means those wetlands intentionally constructed on nonwetland sites to produce or replace natural wetland functions and values. Constructed beneficial use wetlands are considered "waters of the state."

(17) "Constructed treatment wetlands" means those wetlands intentionally constructed on nonwetland sites and managed for the primary purpose of wastewater or storm water treatment. Constructed treatment wetlands are considered part of the collection and treatment system and are not considered "waters of the state."

(18) "Agricultural industrial process water" means water that has been used for the purpose of (~~agriculture [agricultural]~~) agricultural processing and has been

adequately and reliably treated, so that as a result of that treatment, it is suitable for other agricultural water use.

(19) "Agricultural processing" means the processing of crops or milk to produce a product primarily for wholesale or retail sale for human or animal consumption, including but not limited to potato, fruit, vegetable, and grain processing.

(20) "Agricultural water use" means the use of water for irrigation and other uses related to the production of agricultural products. These uses include, but are not limited to, construction, operation, and maintenance of agricultural facilities and livestock operations at farms, ranches, dairies, and nurseries. Examples of these uses include, but are not limited to, dust control, temperature control, and fire control.

(21) "Industrial reuse water" means water that has been used for the purpose of industrial processing and has been adequately and reliably treated so that, as a result of that treatment, it is suitable for other uses.

Sec. 4. RCW 90.46.030 and 1992 c 204 s 4 are each amended to read as follows:

(1) The department of health shall, in coordination with the department of ecology, adopt a single set of standards, procedures, and guidelines on or before August 1, 1993, for the industrial and commercial use of reclaimed water.

(2) The department of health may issue a reclaimed water permit for industrial and commercial uses of reclaimed water to the generator of reclaimed water who may then distribute the water, subject to provisions in the permit governing the location, rate, water quality, and purposes of use.

(3) The department of health in consultation with the advisory committee established in RCW 90.46.050, shall develop recommendations for a fee structure for permits issued under subsection (2) of this section. Fees shall be established in amounts to fully recover, and not exceed, expenses incurred by the department of health in processing permit applications and modifications, monitoring and evaluating compliance with permits, and conducting inspections and supporting the reasonable overhead expenses that are directly related to these activities. Permit fees may not be used for research or enforcement activities. The department of health shall not issue permits under this section until a fee structure has been established.

(4) A permit under this section for use of reclaimed water may be issued only to a municipal, quasi-municipal, or other governmental entity or to the holder of a waste discharge permit issued under chapter 90.48 RCW.

(5) The authority and duties created in this section are in addition to any authority and duties already provided in law with regard to sewage and wastewater collection, treatment, and disposal for the protection of health and safety of the state's waters. Nothing in this section limits the powers of the state or any political subdivision to exercise such authority.

(6) The department of health may implement the requirements of this section through the department of ecology by execution of a formal agreement between the departments. Upon execution of such an agreement, the department of ecology may issue reclaimed water permits for industrial and commercial uses of reclaimed water by issuance of permits under chapter 90.48 RCW, and may establish and collect fees as required for permits issued under chapter 90.48 RCW.

Sec. 5. RCW 90.46.130 and 2001 c 69 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, facilities that reclaim water under this chapter shall not impair any existing water right downstream from any freshwater discharge points of such facilities unless compensation or mitigation for such impairment is agreed to by the holder of the affected water right.

(2) Agricultural water use of agricultural industrial process water and use of industrial reuse water under this chapter shall not impair existing water rights within the water source that is the source of supply for the agricultural processing plant or the industrial processing and, if the water source is surface water, the existing water rights are downstream from the agricultural processing plant's discharge points existing on July 22, 2001, or from the industrial processing's discharge points existing on the effective date of this section.

NEW SECTION. Sec. 6. A new section is added to chapter 90.46 RCW to read as follows:

(1) The permit to use industrial reuse water shall be the permit issued under chapter 90.48 RCW to the owner of the plant that is the source of the industrial process water, who may then distribute the water according to provisions in the permit governing the location, rate, water quality, and purpose. In cases where the department of ecology determines that a proposed use may pose a significant risk to public health, the department shall refer the permit application to the department of health for review and consultation.

(2) The owner of the industrial plant who obtains a permit under this section has the exclusive right to the use of any industrial reuse water generated from the plant and to the distribution of such water. Use and distribution of the water by the owner is exempt from the permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and 90.44.100.

(3) Nothing in this section affects any right to reuse industrial process water in existence on or before the effective date of this section.

Sec. 7. RCW 90.38.020 and 2001 c 237 s 28 are each amended to read as follows:

(1)(a) The department may acquire water rights, including but not limited to storage rights, by purchase, lease, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights. A water right acquired by the

state that is expressly conditioned to limit its use to instream purposes shall be administered as a trust water right in compliance with that condition.

(b) If ~~((an aquatic species is listed as threatened or endangered under federal law for a body of water, or is listed as depressed or threatened by reason of inadequate stream flows under state law, and))~~ the holder of a right to water from ~~((the))~~ a body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing ~~((those))~~ instream flows on a temporary or permanent basis, the department shall accept the donation on such terms as the person may prescribe as long as the donation satisfies the requirements of subsection (4) of this section and the other applicable requirements of this chapter and the terms prescribed are relevant and material to protecting any interest in the water right retained by the donor. Once accepted, such rights are trust water rights within the conditions prescribed by the donor.

(2) The department may make such other arrangements, including entry into contracts with other persons or entities as appropriate to ensure that trust water rights acquired in accordance with this chapter can be exercised to the fullest possible extent.

(3) The trust water rights may be acquired on a temporary or permanent basis.

(4) A water right donated under subsection (1)(b) of this section shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation. A water right holder who believes his or her water right has been impaired by a trust water right donated under subsection (1)(b) of this section may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the donation or exercising a portion of that trust water right donated under subsection (1)(b) of this section is impairing existing water rights in violation of RCW 90.38.902, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not alter a trust water right donated under subsection (1)(b) of this section is appealable to the pollution control hearings board under RCW 43.21B.230. A donated water right's status as a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(5) Any water right conveyed to the trust water right system as a gift that is expressly conditioned to limit its use to instream purposes shall be managed by the department for public purposes to ensure that it qualifies as a gift that is deductible for federal income taxation purposes for the person or entity conveying the water right.

(6) If the department acquires a trust water right by lease ~~((in an area in which a drought order has been issued under RCW 43.83B.405 and is in effect at the time the department leases the water right))~~, the amount of the trust water right shall not exceed the extent to which the water right was exercised during the five years

before the acquisition was made nor may the total of any portion of the water right remaining with the original water right holder plus the portion of the water right leased by the department exceed the extent to which the water right was exercised during the five years before the acquisition. A water right holder who believes his or her water right has been impaired by a trust water right leased under this subsection may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the leasing or exercising ~~((of))~~ of a portion of that trust water right leased under this subsection is impairing existing water rights in violation of RCW 90.38.902, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right leased under this subsection is appealable to the pollution control hearings board under RCW 43.21B.230. The department's leasing of a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(7) For a water right donated to or acquired by the trust water rights program on a temporary basis, the full quantity of water diverted or withdrawn to exercise the right before the donation or acquisition shall be placed in the trust water rights program and shall revert to the donor or person from whom it was acquired when the trust period ends.

Sec. 8. RCW 90.42.040 and 2001 c 237 s 30 are each amended to read as follows:

(1) All trust water rights acquired by the state shall be placed in the state trust water rights program to be managed by the department. Trust water rights acquired by the state shall be held or authorized for use by the department for instream flows, irrigation, municipal, or other beneficial uses consistent with applicable regional plans for pilot planning areas, or to resolve critical water supply problems. To the extent practicable and subject to legislative appropriation, trust water rights acquired in an area with an approved watershed plan developed under chapter 90.82 RCW shall be consistent with that plan if the plan calls for such acquisition.

(2) The department shall issue a water right certificate in the name of the state of Washington for each permanent trust water right conveyed to the state indicating the reach or reaches of the stream, the quantity, and the use or uses to which it may be applied. A superseding certificate shall be issued that specifies the amount of water the water right holder would continue to be entitled to as a result of the water conservation project. The superseding certificate shall retain the same priority date as the original right. For nonpermanent conveyances, the department shall issue certificates or such other instruments as are necessary to reflect the changes in purpose or place of use or point of diversion or withdrawal.

(3) A trust water right retains the same priority date as the water right from which it originated, but as between them the trust right shall be deemed to be inferior in priority unless otherwise specified by an agreement between the state and the party holding the original right.

(4) Exercise of a trust water right may be authorized only if the department first determines that neither water rights existing at the time the trust water right is established, nor the public interest will be impaired. If impairment becomes apparent during the time a trust water right is being exercised, the department shall cease or modify the use of the trust water right to eliminate the impairment.

(5) Before any trust water right is created or modified, the department shall, at a minimum, require that a notice be published in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use are to be made, and in other newspapers as the department determines is necessary, once a week for two consecutive weeks. At the same time the department shall send a notice containing pertinent information to all appropriate state agencies, potentially affected local governments and federally recognized tribal governments, and other interested parties.

(6) RCW 90.14.140 through 90.14.230 have no applicability to trust water rights held by the department under this chapter or exercised under this section.

(7) RCW 90.03.380 has no applicability to trust water rights acquired by the state through the funding of water conservation projects.

(8) Subsections (4) and (5) of this section do not apply to a trust water right resulting from a donation for instream flows described in RCW 90.42.080(1)(b) or to a trust water right leased under RCW 90.42.080(8) if the period of the lease does not exceed five years. However, the department shall provide the notice described in subsection (5) of this section the first time the trust water right resulting from the donation is exercised.

(9) Where a portion of an existing water right that is acquired or donated to the trust water rights program will assist in achieving established instream flows, the department shall process the change or amendment of the existing right without conducting a review of the extent and validity of the portion of the water right that will remain with the water right holder.

Sec. 9. RCW 90.42.080 and 2001 c 237 s 31 are each amended to read as follows:

(1)(a) The state may acquire all or portions of existing water rights, by purchase, gift, or other appropriate means other than by condemnation, from any person or entity or combination of persons or entities. Once acquired, such rights are trust water rights. A water right acquired by the state that is expressly conditioned to limit its use to instream purposes shall be administered as a trust water right in compliance with that condition.

(b) If ~~((an aquatic species is listed as threatened or endangered under federal law for a body of water, or is listed as depressed or threatened by reason of inadequate stream flow under state law, and))~~ the holder of a right to water from ~~((the))~~ a body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing ~~((those))~~ instream flows on a temporary or permanent basis, the department shall accept the donation on such terms as the person may prescribe as long as the donation satisfies the requirements

of subsection (4) of this section and the other applicable requirements of this chapter and the terms prescribed are relevant and material to protecting any interest in the water right retained by the donor. Once accepted, such rights are trust water rights within the conditions prescribed by the donor.

(2) The department may enter into leases, contracts, or such other arrangements with other persons or entities as appropriate, to ensure that trust water rights acquired in accordance with this chapter may be exercised to the fullest possible extent.

(3) Trust water rights may be acquired by the state on a temporary or permanent basis.

(4) A water right donated under subsection (1)(b) of this section shall not exceed the extent to which the water right was exercised during the five years before the donation nor may the total of any portion of the water right remaining with the donor plus the donated portion of the water right exceed the extent to which the water right was exercised during the five years before the donation. A water right holder who believes his or her water right has been impaired by a trust water right donated under subsection (1)(b) of this section may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the donation or exercising a portion of that trust water right donated under subsection (1)(b) of this section is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right donated under subsection (1)(b) of this section is appealable to the pollution control hearings board under RCW 43.21B.230. A donated water right's status as a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(5) The provisions of RCW 90.03.380 and 90.03.390 do not apply to donations for instream flows described in subsection (1)(b) of this section, but do apply to other transfers of water rights under this section.

(6) No funds may be expended for the purchase of water rights by the state pursuant to this section unless specifically appropriated for this purpose by the legislature.

(7) Any water right conveyed to the trust water right system as a gift that is expressly conditioned to limit its use to instream purposes shall be managed by the department for public purposes to ensure that it qualifies as a gift that is deductible for federal income taxation purposes for the person or entity conveying the water right.

(8) If the department acquires a trust water right by lease (~~in an area in which a drought order has been issued under RCW 43.83B.405 and is in effect at the time the department leases the water right~~), the amount of the trust water right shall not exceed the extent to which the water right was exercised during the five years before the acquisition was made nor may the total of any portion of the water right remaining with the original water right holder plus the portion of the water right

leased by the department exceed the extent to which the water right was exercised during the five years before the acquisition. A water right holder who believes his or her water right has been impaired by a trust water right leased under this subsection may request that the department review the impairment claim. If the department determines that exercising the trust water right resulting from the leasing or exercising ~~((to))~~ of a portion of that trust water right leased under this subsection is impairing existing water rights in violation of RCW 90.42.070, the trust water right shall be altered by the department to eliminate the impairment. Any decision of the department to alter or not to alter a trust water right leased under this subsection is appealable to the pollution control hearings board under RCW 43.21B.230. The department's leasing of a trust water right under this subsection is not evidence of the validity or quantity of the water right.

(9) For a water right donated to or acquired by the trust water rights program on a temporary basis, the full quantity of water diverted or withdrawn to exercise the right before the donation or acquisition shall be placed in the trust water rights program and shall revert to the donor or person from whom it was acquired when the trust period ends.

Sec. 10. RCW 90.03.370 and 2000 c 98 s 3 are each amended to read as follows:

(1)(a) All applications for reservoir permits ~~((shall be))~~ are subject to the provisions of RCW 90.03.250 through 90.03.320. But the party or parties proposing to apply to a beneficial use the water stored in any such reservoir shall also file an application for a permit, to be known as the secondary permit, which shall be in compliance with the provisions of RCW 90.03.250 through 90.03.320. Such secondary application shall refer to such reservoir as its source of water supply and shall show documentary evidence that an agreement has been entered into with the owners of the reservoir for a permanent and sufficient interest in said reservoir to impound enough water for the purposes set forth in said application. When the beneficial use has been completed and perfected under the secondary permit, the department shall take the proof of the water users under such permit and the final certificate of appropriation shall refer to both the ditch and works described in the secondary permit and the reservoir described in the primary permit. The department may accept for processing a single application form covering both a proposed reservoir and a proposed secondary permit or permits for use of water from that reservoir.

(b) The department shall expedite processing applications for the following types of storage proposals:

(i) Development of storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored;

(ii) Adding or changing one or more purposes of use of stored water;

(iii) Adding to the storage capacity of an existing storage facility; and

(iv) Applications for secondary permits to secure use from existing storage facilities.

(c) A secondary permit for the beneficial use of water shall not be required for use of water stored in a reservoir where the water right for the source of the stored water authorizes the beneficial use.

(2)(a) For the purposes of this section, "reservoir" includes, in addition to any surface reservoir, any naturally occurring underground geological formation where water is collected and stored for subsequent use as part of an underground artificial storage and recovery project. To qualify for issuance of a reservoir permit an underground geological formation must meet standards for review and mitigation of adverse impacts identified, for the following issues:

- (i) Aquifer vulnerability and hydraulic continuity;
- (ii) Potential impairment of existing water rights;
- (iii) Geotechnical impacts and aquifer boundaries and characteristics;
- (iv) Chemical compatibility of surface waters and ground water;
- (v) Recharge and recovery treatment requirements;
- (vi) System operation;
- (vii) Water rights and ownership of water stored for recovery; and
- (viii) Environmental impacts.

(b) Standards for review and standards for mitigation of adverse impacts for an underground artificial storage and recovery project shall be established by the department by rule. Notwithstanding the provisions of RCW 90.03.250 through 90.03.320, analysis of each underground artificial storage and recovery project and each underground geological formation for which an applicant seeks the status of a reservoir shall be through applicant-initiated studies reviewed by the department.

(3) For the purposes of this section, "underground artificial storage and recovery project" means any project in which it is intended to artificially store water in the ground through injection, surface spreading and infiltration, or other department-approved method, and to make subsequent use of the stored water. However, (a) this subsection does not apply to irrigation return flow, or to operational and seepage losses that occur during the irrigation of land, or to water that is artificially stored due to the construction, operation, or maintenance of an irrigation district project, or to projects involving water reclaimed in accordance with chapter 90.46 RCW; and (b) RCW 90.44.130 applies to those instances of claimed artificial recharge occurring due to the construction, operation, or maintenance of an irrigation district project or operational and seepage losses that occur during the irrigation of land, as well as other forms of claimed artificial recharge already existing at the time a ground water subarea is established.

(4) Nothing in chapter 98, Laws of 2000 changes the requirements of existing law governing issuance of permits to appropriate or withdraw the waters of the state.

(5) The department shall report to the legislature by December 31, 2001, on the standards for review and standards for mitigation developed under subsection (3) of this section and on the status of any applications that have been filed with the department for underground artificial storage and recovery projects by that date.

(6) Where needed to ensure that existing storage capacity is effectively and efficiently used to meet multiple purposes, the department may authorize reservoirs to be filled more than once per year or more than once per season of use.

NEW SECTION. Sec. 11. A new section is added to chapter 43.155 RCW to read as follows:

The water conservation account is created in the custody of the state treasurer. All receipts from federal funding dedicated to water conservation under 16 U.S.C. Sec. 3831 shall be deposited in the account. In addition, the legislature may appropriate money to the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Expenditures from the account shall be used for the development and support of water conservation as defined by 16 U.S.C. Sec. 3831. Only the public works board or its designee may make expenditures from the account.

NEW SECTION. Sec. 12. Section 11 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the House March 13, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 330

[Substitute House Bill 2874]

COLUMBIA BASIN PROJECT—GROUND WATER ALLOCATION

AN ACT Relating to agreements for allocation of ground waters that exist as a result of the Columbia basin project; adding new sections to chapter 89.12 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that delivery of Columbia basin project water through canals and its application to land through irrigation over approximately the past fifty years has dramatically affected ground water in the Pasco basin, located in western Franklin county, along the Columbia river and north of the city of Pasco. According to studies conducted by the United States geological survey, the volume of ground water has increased by about five million acre-feet. About eighty-five percent of this increase is the result of percolation following irrigation and seepage from the distribution system. Ground water levels have also risen as a result of reservoirs formed behind the dams on the Columbia and Snake rivers. As a result of drainage management, the system is reported to be at equilibrium. The studies provide the information needed to determine which ground water is a result of the project and which is naturally occurring. Potential problems associated with the raised ground water levels include landslides and loss of arable land through ponding. Benefits include dilution of concentrations of

nitrate and increase in volume of water potentially available for beneficial use over the naturally occurring volume otherwise available.

NEW SECTION. Sec. 2. It is the intent of the legislature to grant authority to the department of ecology to enter into agreements with the United States for allocation of ground waters that exist as a result of the Columbia basin project, adopt rules for implementing the agreements and establishing priorities for processing applications, and accept funds for expenses incurred, consistent with applicable state and federal law. Inasmuch as rules adopted by the department will be significant legislative rules, the legislature intends to assure that it will be able to properly carry out its responsibility to both give direction and review the rules after their adoption by requiring periodic reports by the department.

NEW SECTION. Sec. 3. A new section is added to chapter 89.12 RCW to read as follows:

The department of ecology is authorized to enter into agreements with the United States for the allocation of ground waters that exist as a result of the Columbia basin project. The agreements and any allocation of water pursuant to the agreements must be consistent with authorized project purposes, federal and state reclamation laws, including federal rate requirements, and provisions of United States' repayment contracts pertaining to the project. The agreements must provide that the department grant an application to beneficially use such water only if the department determines that the application will not impair existing water rights or project operations or harm the public interest. Use of water allocated pursuant to the terms of the agreements must be contingent upon issuance of licenses by the United States to approved applicants. This section is not intended to alter or affect any ownership interest or rights in ground waters that are not allocated pursuant to the agreements. Before implementing any such agreements, the department, with the concurrence of the United States, shall adopt a rule setting forth the procedures for implementing the agreements and the priorities for processing of applications. The department is authorized to accept funds for administrative and staff expenses that it incurs in connection with entering into or implementing the agreements.

NEW SECTION. Sec. 4. A new section is added to chapter 89.12 RCW to read as follows:

The department of ecology shall report annually to the standing committees of the legislature with jurisdiction over water resources regarding the activities authorized by section 3 of this act, beginning December 1, 2002, and ending December 1, 2007.

Passed the House March 11, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 331

[Engrossed Substitute Senate Bill 5236]
NEWBORN CHILDREN—SAFETY

AN ACT Relating to the safety of newborn children; amending RCW 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, and 26.20.035; adding a new section to chapter 13.34 RCW; creating new sections; prescribing penalties; 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 intends to increase the likelihood that pregnant women will obtain adequate prenatal care and will provide their newborns with adequate health care during the first few days of their lives. The legislature recognizes that prenatal and postdelivery health care for newborns and their mothers is especially critical to their survival and well-being. The legislature does not intend to encourage the abandonment of newborn children nor to change existing law relating to notification to parents under chapter 13.34 RCW, but rather to assure that abandonment does not occur and that all newborns have an opportunity for adequate health care and a stable home life.

NEW SECTION. **Sec. 2.** A new section is added to chapter 13.34 RCW to read as follows:

(1) For purposes of this section:

(a) "Appropriate location" means (i) the emergency department of a hospital licensed under chapter 70.41 RCW during the hours the hospital is in operation; or (ii) a fire station during its hours of operation and while fire personnel are present.

(b) "Newborn" means a live human being who is less than seventy-two hours old.

(c) "Qualified person" means (i) any person that the parent transferring the newborn reasonably believes is a bona fide employee, volunteer, or medical staff member of the hospital and who represents to the parent transferring the newborn that he or she can and will summon appropriate resources to meet the newborn's immediate needs; or (ii) a fire fighter, volunteer, or emergency medical technician at a fire station who represents to the parent transferring the newborn that he or she can and will summon appropriate resources to meet the newborn's immediate needs.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location is not subject to criminal liability under RCW 9A.42.060, 9A.42.070, 9A.42.080, 26.20.030, or 26.20.035.

(3)(a) The qualified person at an appropriate location shall not require the parent transferring the newborn to provide any identifying information in order to transfer the newborn.

(b) The qualified person at an appropriate location shall attempt to protect the anonymity of the parent who transfers the newborn, while providing an opportunity for the parent to anonymously give the qualified person such information as the parent knows about the family medical history of the parents and the newborn. The qualified person at an appropriate location shall provide referral information

about adoption options, counseling, appropriate medical and emotional aftercare services, domestic violence, and legal rights to the parent seeking to transfer the newborn.

(c) If a parent of a newborn transfers the newborn to a qualified person at an appropriate location pursuant to this section, the qualified person shall cause child protective services to be notified within twenty-four hours after receipt of such a newborn. Child protective services shall assume custody of the newborn within twenty-four hours after receipt of notification.

(d) A hospital or fire station, its employees, volunteers, and medical staff are immune from any criminal or civil liability for accepting or receiving a newborn under this section.

Sec. 3. RCW 9A.42.060 and 1996 c 302 s 2 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the first degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life;

(b) The person recklessly abandons the child or other dependent person; and

(c) As a result of being abandoned, the child or other dependent person suffers great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to section 2 of this act is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the first degree is a class B felony.

Sec. 4. RCW 9A.42.070 and 1996 c 302 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the second degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or other dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers substantial bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other dependent person will die or suffer great bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to section 2 of this act is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the second degree is a class C felony.

Sec. 5. RCW 9A.42.080 and 1996 c 302 s 4 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a person is guilty of the crime of abandonment of a dependent person in the third degree if:

(a) The person is the parent of a child, a person entrusted with the physical custody of a child or other dependent person, or a person employed to provide to the child or dependent person any of the basic necessities of life; and

(b) The person recklessly abandons the child or other dependent person; and:

(i) As a result of being abandoned, the child or other dependent person suffers bodily harm; or

(ii) Abandoning the child or other dependent person creates an imminent and substantial risk that the child or other person will suffer substantial bodily harm.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to section 2 of this act is not subject to criminal liability under this section.

(3) Abandonment of a dependent person in the third degree is a gross misdemeanor.

Sec. 6. RCW 26.20.030 and 1984 c 260 s 26 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person who has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it is guilty of the crime of family abandonment.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to section 2 of this act is not subject to criminal liability under this section.

(3) The crime of family abandonment is a class C felony under chapter 9A.20 RCW.

Sec. 7. RCW 26.20.035 and 1984 c 260 s 27 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, any person who is able to provide support, or has the ability to earn the means to provide support, and who:

(a) Willfully omits to provide necessary food, clothing, shelter, or medical attendance to a child dependent upon him or her; or

(b) Willfully omits to provide necessary food, clothing, shelter, or medical attendance to his or her spouse,
is guilty of the crime of family nonsupport.

(2) A parent of a newborn who transfers the newborn to a qualified person at an appropriate location pursuant to section 2 of this act is not subject to criminal liability under this section.

(3) The crime of family nonsupport is a gross misdemeanor under chapter 9A.20 RCW.

NEW SECTION. Sec. 8. (1) The secretary of the department of social and health services shall convene a task force to recommend methods of implementing this act, including how private or public funding may be obtained to support a program of public education regarding the provisions of this act. The task force shall consider all reasonable methods of educating Washington residents about the need for prenatal and postdelivery health care for a newborn whose parents may otherwise not seek such care and place their newborn at risk as a result. The task force shall also consider, and make recommendations regarding: (a) Ways to meet the medical and emotional needs of the mother and to improve the promotion of adoption as an alternative to placing a newborn in situations that create a serious risk to his or her health; and (b) methods of providing access to (i) the medical history of the parents of a newborn who is transferred to a hospital pursuant to section 2 of this act; and (ii) the medical history of the newborn, consistent with the protection of the anonymity of the parents of the newborn. The task force shall develop model forms of policies and procedures for hospitals and fire stations to use in receiving newborns under section 2 of this act.

(2) In addition to the secretary, or the secretary's designee, the task force shall include but not be limited to representation from the following: (a) Licensed physicians; (b) public and private agencies which provide adoption services; (c) private attorneys handling adoptions; (d) the licensed nursing community; (e) hospitals; (f) prosecuting attorneys; (g) foster parents; (h) the department of health; (i) the attorney general; (j) advocacy groups concerned with the availability of adoption records; (k) risk managers; (l) the public; and (m) fire fighters and emergency medical technicians. At least three members of the task force shall be public members. The task force may seek input from other experts as needed.

(3) Members of the task force shall serve without compensation. The department shall provide support to the task force, including the production of the required report and travel reimbursements, within existing resources, unless private or other nonstate funding can be secured.

(4) The task force shall submit its report and recommendations to the governor and legislature not later than December 1, 2002.

(5) This section expires January 1, 2004.

NEW SECTION. Sec. 9. Sections 1 through 7 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

Passed the Senate March 13, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 332

[House Bill 2352]

RISK MANAGEMENT DIVISION

AN ACT Relating to transferring statewide risk management functions from the department of general administration to the office of financial management; amending RCW 43.19.025, 43.19.1935, 43.19.1936, 43.19.19362, 43.19.19367, 43.19.19369, 4.92.006, 4.92.040, 4.92.100, 4.92.110, 4.92.130, 4.92.150, 4.92.160, 4.92.210, 4.92.220, 4.92.230, 4.92.240, 4.92.270, 39.59.010, 43.41.110, and 48.62.021; reenacting and amending RCW 43.19.1906; adding new sections to chapter 43.41 RCW; creating new sections; recodifying RCW 43.19.1935, 43.19.1936, 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, 43.19.19367, 43.19.19368, 43.19.19369, and 43.19.540; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature that state risk management should have increased visibility at a policy level in state government. This increased visibility can best be accomplished by the transfer of the statewide risk management function from the department of general administration to the office of financial management. The legislature intends that this transfer will result in increasing visibility for the management and funding of statewide risk, increasing executive involvement in risk management issues, and improving statewide risk management accountability.

NEW SECTION. **Sec. 2.** (1) The powers, duties, and functions of statewide risk management are hereby transferred from the department of general administration to the office of financial management.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of general administration relating to the risk management office shall be delivered to the custody of the office of financial management. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the risk management office in the department of general administration shall be made available to the office of financial management. All funds, credits, or other assets held by the risk management office in the department of general administration shall be assigned to the office of financial management.

(b) If 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.

(c) Any appropriations made in connection with the powers, duties, and functions transferred by this act shall, on the effective date of this section, be transferred and credited to the office of financial management.

(3) All employees of the risk management office in the department of general administration are transferred to the jurisdiction of the office of financial management. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of financial management to perform their usual duties upon the same terms as formerly, without any loss of rights, subject

to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the risk management office of the department of general administration shall be continued and acted upon by the office of financial management. All existing contracts and obligations shall remain in full force and shall be performed by the office of financial management.

(5) The transfer of the powers, duties, functions, and personnel of the risk management office of the department of general administration shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

Sec. 3. RCW 43.19.025 and 2001 c 292 s 2 are each amended to read as follows:

The general administration services account is created in the custody of the state treasurer and shall be used for all activities previously budgeted and accounted for in the following internal service funds: The motor transport account, the general administration management fund, the general administration facilities and services revolving fund, the central stores revolving fund, the surplus property purchase revolving fund, ~~((the risk management account,))~~ and the energy efficiency services account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW.

Sec. 4. RCW 43.19.1906 and 1999 sp.s. c 1 s 606, 1999 c 195 s 1, and 1999 c 106 s 1 are each reenacted and amended to read as follows:

Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: **PROVIDED**, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid

limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. 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. A record of competition for all such purchases from three thousand dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to three thousand dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management (~~office~~) division under RCW 43.19.1935 (as recodified by this act);

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases for resale by institutions of higher education to other than public agencies when such purchases are for the express purpose of supporting

instructional programs and may best be executed through direct negotiation with one or more suppliers in order to meet the special needs of the institution;

(8) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between three thousand dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between three thousand dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from three thousand to thirty-five thousand dollars shall be documented for audit purposes; and

(9) Negotiation of a contract by the department of transportation, valid until June 30, 2001, with registered tow truck operators to provide roving service patrols in one or more Washington state patrol tow zones whereby those registered tow truck operators wishing to participate would cooperatively, with the department of transportation, develop a demonstration project upon terms and conditions negotiated by the parties.

Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. However, the three thousand dollar figure in subsections (2) and (8) of this section may not be adjusted to exceed five thousand dollars.

Sec. 5. RCW 43.19.1935 and 1998 c 105 s 8 are each amended to read as follows:

As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director (~~(of general administration through the risk management office)~~) shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management (~~(office)~~) division periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director (~~(of the department of general administration)~~).

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management (~~(office)~~) division

prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the (~~general administration services~~) risk management administration account which shall be reimbursed by the agency or agencies for which procurement is made.

Sec. 6. RCW 43.19.1936 and 1985 c 188 s 5 are each amended to read as follows:

The director (~~(of general administration)~~), through the risk management (~~(office)~~) division, may purchase, or contract for the purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington.

Sec. 7. RCW 43.19.19362 and 1998 c 245 s 55 are each amended to read as follows:

There is hereby created a risk management (~~(office)~~) division within the (~~department of general administration~~) office of financial management. The director (~~(of general administration)~~) shall implement the risk management policy in RCW 43.19.19361 (as recodified by this act) through the risk management (~~(office)~~) division. The director (~~(of general administration)~~) shall appoint a risk manager to supervise the risk management (~~(office)~~) division. The risk management (~~(office)~~) division shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss.

Sec. 8. RCW 43.19.19367 and 1988 c 281 s 6 are each amended to read as follows:

The director (~~(of general administration)~~), through the risk management (~~(office)~~) division, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4).

Sec. 9. RCW 43.19.19369 and 1989 c 419 s 11 are each amended to read as follows:

The (~~department of general administration~~) office shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account.

Sec. 10. RCW 4.92.006 and 1989 c 419 s 2 are each amended to read as follows:

As used in this chapter:

(1) "~~(Department)~~ Office" means the (~~department of general administration~~) office of financial management.

(2) "Director" means the director of financial management.

(3) "Risk management division" means the division of the office of financial management that carries out the powers and duties under this chapter relating to claim filing, claims administration, and claims payment.

(4) "Risk manager" means the person supervising the ~~((office of))~~ risk management ~~((in the department of general administration))~~ division.

Sec. 11. RCW 4.92.040 and 1999 c 163 s 3 are each amended to read as follows:

(1) No execution shall issue against the state on any judgment.

(2) Whenever a final judgment against the state is obtained in an action on a claim arising out of tortious conduct, the claim shall be paid from the liability account.

(3) Whenever a final judgment against the state shall have been obtained in any other action, the clerk of the court shall make and furnish to the risk management ~~((office))~~ division a duly certified copy of such judgment; the risk management ~~((office))~~ division shall thereupon audit the amount of damages and costs therein awarded, and the same shall be paid from appropriations specifically provided for such purposes by law.

(4) Final judgments for which there are no provisions in state law for payment shall be transmitted by the risk management ~~((office))~~ division to the senate and house of representatives committees on ways and means as follows:

(a) On the first day of each session of the legislature, the risk management ~~((office))~~ division shall transmit judgments received and audited since the adjournment of the previous session of the legislature.

(b) During each session of legislature, the risk management ~~((office))~~ division shall transmit judgments immediately upon completion of audit.

(5) All claims, other than judgments, made to the legislature against the state of Washington for money or property, shall be accompanied by a statement of the facts on which such claim is based and such evidence as the claimant intends to offer in support of the claim and shall be filed with the risk management ~~((office))~~ division, which shall retain the same as a record. All claims of two thousand dollars or less shall be approved or rejected by the risk management ~~((office))~~ division, and if approved shall be paid from appropriations specifically provided for such purpose by law. Such decision, if adverse to the claimant in whole or part, shall not preclude the claimant from seeking relief from the legislature. If the claimant accepts any part of his or her claim which is approved for payment by the risk management ~~((office))~~ division, such acceptance shall constitute a waiver and release of the state from any further claims relating to the damage or injury asserted in the claim so accepted. The risk management ~~((office))~~ division shall submit to the house and senate committees on ways and means, at the beginning of each regular session, a comprehensive list of all claims paid pursuant to this subsection during the preceding year. For all claims not approved by the risk management ~~((office))~~ division, the risk management ~~((office))~~ division shall recommend to the legislature whether such claims should be approved or rejected. Recommendations shall be submitted to the senate and house of representatives committees on ways and means not later than the thirtieth day of each regular session of the legislature. Claims which cannot be processed for timely submission of recommendations shall

be held for submission during the following regular session of the legislature. The recommendations shall include, but not be limited to:

(a) A summary of the facts alleged in the claim, and a statement as to whether these facts can be verified by the risk management ~~((office))~~ division;

(b) An estimate by the risk management ~~((office))~~ division of the value of the loss or damage which was alleged to have occurred;

(c) An analysis of the legal liability, if any, of the state for the alleged loss or damage; and

(d) A summary of equitable or public policy arguments which might be helpful in resolving the claim.

~~((5))~~ ~~((6))~~ (6) The legislative committees to whom such claims are referred shall make a transcript, recording, or statement of the substance of the evidence given in support of such a claim. If the legislature approves a claim the same shall be paid from appropriations specifically provided for such purpose by law.

~~((6))~~ ~~((7))~~ (7) Subsections (3) through ~~((5))~~ (6) of this section do not apply to judgments or claims against the state housing finance commission created under chapter 43.180 RCW.

Sec. 12. RCW 4.92.100 and 1986 c 126 s 7 are each amended to read as follows:

All claims against the state for damages arising out of tortious conduct shall be presented to and filed with the risk management ~~((office))~~ division. All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.

With respect to the content of such claims this section shall be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 13. RCW 4.92.110 and 1989 c 419 s 14 are each amended to read as follows:

No action shall be commenced against the state for damages arising out of tortious conduct until sixty days have elapsed after the claim is presented to and filed with the risk management ~~((office))~~ division. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty-day period.

Sec. 14. RCW 4.92.130 and 1999 c 163 s 1 are each amended to read as follows:

A liability account in the custody of the treasurer is hereby created as a nonappropriated account to be used solely and exclusively for the payment of liability settlements and judgments against the state under 42 U.S.C. Sec. 1981 et seq. or for the tortious conduct of its officers, employees, and volunteers and all related legal defense costs.

(1) The purpose of the liability account is to: (a) Expeditiously pay legal liabilities and defense costs of the state resulting from tortious conduct; (b) promote risk control through a cost allocation system which recognizes agency loss experience, levels of self-retention, and levels of risk exposure; and (c) establish an actuarially sound system to pay incurred losses, within defined limits.

(2) The liability account shall be used to pay claims for injury and property damages and legal defense costs exclusive of agency-retained expenses otherwise budgeted.

(3) No money shall be paid from the liability account, except for defense costs, unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

(a) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or

(b) The claim has been approved for payment.

(4) The liability account shall be financed through annual premiums assessed to state agencies, based on sound actuarial principles, and shall be for liability coverage in excess of agency-budgeted self-retention levels.

(5) Annual premium levels shall be determined by the risk manager, with the consultation and advice of the risk management advisory committee (~~and concurrence from the office of financial management~~). An actuarial study shall be conducted to assist in determining the appropriate level of funding.

(6) Disbursements for claims from the liability account shall be made to the claimant, or to the clerk of the court for judgments, upon written request to the state treasurer from the risk manager.

(7) The director (~~of the office of financial management~~) may direct agencies to transfer moneys from other funds and accounts to the liability account if premiums are delinquent.

(8) The liability account shall not exceed fifty percent of the actuarial value of the outstanding liability as determined annually by the (~~office of~~) risk management division. If the account exceeds the maximum amount specified in this section, premiums may be adjusted by the (~~office of~~) risk management division in order to maintain the account balance at the maximum limits. If, after adjustment of premiums, the account balance remains above the limits specified, the excess amount (~~with~~) shall be prorated back to the appropriate funds.

Sec. 15. RCW 4.92.150 and 1989 c 403 s 4 are each amended to read as follows:

After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers, employees, or volunteers arising out

of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., or against a foster parent that the attorney general is defending pursuant to RCW 4.92.070, or upon petition by the state, the attorney general, with the prior approval of the risk management ~~((office))~~ division and with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer, employee, volunteer, or foster parent.

Sec. 16. RCW 4.92.160 and 1999 c 163 s 4 are each amended to read as follows:

Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the risk management ~~((office))~~ division, and that ~~((office))~~ division shall authorize and direct the payment of moneys only from the liability account whenever:

(1) The head or governing body of any agency or department of state or the designee of any such agency certifies to the risk management ~~((office))~~ division that a claim has been settled; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state.

Sec. 17. RCW 4.92.210 and 1989 c 419 s 3 are each amended to read as follows:

(1) All liability claims arising out of tortious conduct or under 42 U.S.C. Sec. 1981 et seq. that the state of Washington or any of its officers, employees, or volunteers would be liable for shall be filed with the ~~((office of))~~ risk management ~~((department of general administration, unless specifically delegated to other state agencies under state statute))~~ division.

(2) A centralized claim tracking system shall be maintained to provide agencies with accurate and timely data on the status of liability claims. Information in this claim file, other than the claim itself, shall be privileged and confidential.

(3) Standardized procedures shall be established for filing, reporting, processing, and adjusting claims, which includes the use of qualified claims management personnel.

(4) All claims ~~((will))~~ shall be reviewed by the ~~((office of))~~ risk management division to determine an initial valuation, to delegate to the appropriate office to investigate, negotiate, compromise, and settle the claim, or to retain that responsibility on behalf of and with the assistance of the affected state agency.

(5) All claims that result in a lawsuit ~~((will))~~ shall be forwarded to the attorney general's office. Thereafter the attorney general and the ~~((office of))~~ risk management division shall collaborate in the investigation, denial, or settlement of the claim.

(6) Reserves shall be established for recognizing financial liability and monitoring effectiveness. The valuation of specific claims against the state shall be privileged and confidential.

(7) All settlements shall be approved by the responsible agencies, or their designees, prior to settlement.

Sec. 18. RCW 4.92.220 and 1998 c 105 s 2 are each amended to read as follows:

(1) The risk management administration account is created in the custody of the state treasurer. All receipts from appropriations and assessments shall be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) ~~The ((general administration services))~~ risk management administration account is to be used for the payment of costs related to:

(a) The appropriated administration of liability, property, and vehicle claims, including investigation, claim processing, negotiation, and settlement, and other expenses relating to settlements and judgments against the state not otherwise budgeted; and

(b) The nonappropriated pass-through cost associated with the purchase of liability and property insurance, including catastrophic insurance, subject to policy conditions and limitations determined by the risk manager.

~~((2))~~ (3) ~~The ((general administration services))~~ risk management administration account's appropriation for risk management shall be financed through a combination of direct appropriations and assessments to state agencies.

Sec. 19. RCW 4.92.230 and 1989 c 419 s 7 are each amended to read as follows:

(1) The director ~~((of the department of general administration))~~ shall establish an ongoing risk management advisory committee. Members of the committee may include but shall not be limited to ~~((representatives))~~ directors or deputy directors of state agencies, presidents or vice-presidents of institutions of higher education, or representatives of local government~~(s)~~ or the private sector.

(2) The director ~~((of the department of general administration))~~ or his or her designee shall serve as chair. The committee shall meet upon call of the chairperson and shall adopt rules for the conduct of its business.

(3) The risk management advisory committee ~~((will))~~ shall provide guidance in:

(a) Determining appropriate roles, responsibilities of the ~~((office of))~~ risk management division, and policies regarding statewide risk management;

- (b) Establishing premiums or other cost allocation systems;
- (c) Determining appropriate programs and coverages for self-insurance versus insurance;
- (d) Developing risk retention pools; and
- (e) Preparing recommendations for containment of risk exposures.

Sec. 20. RCW 4.92.240 and 1989 c 419 s 8 are each amended to read as follows:

The director (~~(of general administration)~~) has the power to adopt rules necessary to carry out the intent of this chapter.

Sec. 21. RCW 4.92.270 and 1989 c 419 s 15 are each amended to read as follows:

The risk manager shall develop procedures for standard indemnification agreements for state agencies to use whenever the agency agrees to indemnify, or be indemnified by, any person or party. The risk manager shall also develop guidelines for the use of indemnification agreements by state agencies. On request of the risk manager, an agency shall forward to the risk management (~~(office)~~) division for review and approval any contract or agreement containing an indemnification agreement.

Sec. 22. RCW 39.59.010 and 1988 c 281 s 1 are each amended to read as follows:

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

(1) "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)~~) division of the (~~(department of general administration)~~) office of financial management a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030 (2) or (3).

(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)~~) division of the (~~(department of general administration)) office of financial management~~ a bond or other similar instrument in the amount of at least five percent of the amount invested in the fund pursuant to RCW 39.59.030(1).

(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.

Sec. 23. RCW 43.41.110 and 1981 2nd ex.s. c 4 s 13 are each amended to read as follows:

The office of financial management shall:

(1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.

(2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.

(3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.

(4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Carry out the provisions of this chapter and chapter 4.92 RCW relating to risk management.

(9) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

~~((9))~~ (10) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

~~((10))~~ (11) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

~~((11))~~ (12) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

~~((12))~~ (13) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

~~((13))~~ (14) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds.

Sec. 24. RCW 48.62.021 and 1999 c 153 s 60 are each amended to read as follows:

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

(1) "Local government entity" or "entity" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, water-sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, and quasi-municipal corporations.

(2) "Risk assumption" means a decision to absorb the entity's financial exposure to a risk of loss without the creation of a formal program of advance funding of anticipated losses.

(3) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(4) "Health and welfare benefits" means a plan or program established by a local government entity or entities for the purpose of providing its employees and their dependents, and in the case of school districts, its district employees, students, directors, or any of their dependents, with health care, accident, disability, death, and salary protection benefits.

(5) "Property and liability risks" includes the risk of property damage or loss sustained by a local government entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the local government entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the local government entity.

(6) "State risk manager" means the ~~((state))~~ risk manager of the ~~((division of))~~ risk management division within the ~~((department of general administration))~~ office of financial management.

NEW SECTION. Sec. 25. RCW 43.19.1935, 43.19.1936, 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, 43.19.19367, 43.19.19368, 43.19.19369, and 43.19.540 are each recodified as sections in chapter 43.41 RCW.

NEW SECTION. Sec. 26. This act shall take effect July 1, 2002.

Passed the House March 9, 2002.

Passed the Senate March 5, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 333

[Engrossed Substitute Senate Bill 6428]
LOSS PREVENTION REVIEW TEAMS

AN ACT Relating to state agency loss prevention; adding new sections to chapter 43.41 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature intends that when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, a loss prevention review shall be conducted. The legislature recognizes the tension inherent in a loss prevention review and the need to balance the prevention of harm to the public with state agencies' accountability to the public. The legislature intends to minimize this tension and to foster open and frank discussions by granting members of the loss prevention review teams protection from having to testify, and by declaring a general rule that the work product of these teams is inadmissible in civil actions or administrative proceedings.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The director of financial management shall appoint a loss prevention review team when the death of a person, serious injury to a person, or other substantial loss is alleged or suspected to be caused at least in part by the actions of a state agency, unless the director in his or her discretion determines that the incident does not merit review. A loss prevention review team may also be appointed when any other substantial loss occurs as a result of agency policies, litigation or defense practices, or other management practices. When the director decides not to appoint a loss prevention review team he or she shall issue a statement of the reasons for the director's decision. The statement shall be made available on the web site of the office of financial management. The director's decision pursuant to this section to appoint or not appoint a loss prevention review team shall not be admitted into evidence in a civil or administrative proceeding.

(2) A loss prevention review team shall consist of at least three but no more than five persons, and may include independent consultants, contractors, or state employees, but it shall not include any person employed by the agency involved in the loss or risk of loss giving rise to the review, nor any person with testimonial knowledge of the incident to be reviewed. At least one member of the review team shall have expertise relevant to the matter under review.

(3) The loss prevention review team shall review the death, serious injury, or other incident and the circumstances surrounding it, evaluate its causes, and recommend steps to reduce the risk of such incidents occurring in the future. The loss prevention review team shall accomplish these tasks by reviewing relevant documents, interviewing persons with relevant knowledge, and reporting its recommendations in writing to the director of financial management and the director of the agency involved in the loss or risk of loss within the time requested

by the director of financial management. The final report shall not disclose the contents of any documents required by law to be kept confidential.

(4) Pursuant to guidelines established by the director, state agencies must notify the office of financial management immediately upon becoming aware of a death, serious injury, or other substantial loss that is alleged or suspected to be caused at least in part by the actions of the state agency. State agencies shall provide the loss prevention review team ready access to relevant documents in their possession and ready access to their employees.

NEW SECTION. Sec. 3. A new section is added to chapter 43.41 RCW to read as follows:

(1) The final report from a loss prevention review team to the director of financial management shall be made public by the director promptly upon receipt, and shall be subject to public disclosure. The final report shall be subject to discovery in a civil or administrative proceeding. However, the final report shall not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to subsection (2) of this section.

(2) The relevant excerpt or excerpts from the final report of a loss prevention review team may be used to impeach a fact witness in a civil or administrative proceeding only if the party wishing to use the excerpt or excerpts from the report first shows the court by clear and convincing evidence that the witness, in testimony provided in deposition or at trial in the present proceeding, has contradicted his or her previous statements to the loss prevention review team on an issue of fact material to the present proceeding. In that case, the party may use only the excerpt or excerpts necessary to demonstrate the contradiction. This section shall not be interpreted as expanding the scope of material that may be used to impeach a witness.

(3) No member of a loss prevention review team may be examined in a civil or administrative proceeding as to (a) the work of the loss prevention review team, (b) the incident under review, (c) his or her statements, deliberations, thoughts, analyses, or impressions relating to the work of the loss prevention review team or the incident under review, or (d) the statements, deliberations, thoughts, analyses, or impressions of any other member of the loss prevention review team, or any person who provided information to it, relating to the work of the loss prevention review team or the incident under review.

(4) Any document that exists prior to the appointment of a loss prevention review team, or that is created independently of such a team, does not become inadmissible merely because it is reviewed or used by the loss prevention review team. A person does not become unavailable as a witness merely because the person has been interviewed by or has provided a statement to a loss prevention review team. However, if called as a witness, the person may not be examined regarding the person's interactions with the loss prevention review team, including without limitation whether the loss prevention review team interviewed the person, what questions the loss prevention review team asked, and what answers the

person provided to the loss prevention review team. This section shall not be construed as restricting the person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(5) Documents prepared by or for the loss prevention review team are inadmissible and may not be used in a civil or administrative proceeding, except that excerpts may be used to impeach the credibility of a witness under the same circumstances that excerpts of the final report may be used pursuant to subsection (2) of this section.

(6) The restrictions set forth in this section shall not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with the death, injury, or other incident reviewed by the loss prevention review team.

(7) Within one hundred twenty days after completion of the final report of a loss prevention review team, the agency under review shall issue to the office of financial management a response to the report. The response will indicate (a) which of the report's recommendations the agency hopes to implement, (b) whether implementation of those recommendations will require additional funding or legislation, and (c) whatever other information the director may require. This response shall be considered part of the final report and shall be subject to all provisions of this section that apply to the final report, including without limitation the restrictions on admissibility and use in civil or administrative proceedings and the obligation of the director to make the final report public.

(8) Nothing in section 2 of this act or this section is intended to limit the scope of a legislative inquiry into or review of an incident that is the subject of a loss prevention review.

(9) Nothing in section 2 of this act or in this section affects chapter 70.41 RCW and application of that chapter to state-owned or managed hospitals licensed under chapter 70.41 RCW.

Passed the Senate March 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 334

[Senate Bill 6429]

CIVIL ACTIONS—SYMPATHETIC EXPRESSIONS

AN ACT Relating to expressions of benevolence, sympathy, and regret; and adding a new chapter to Title 5 RCW.

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

NEW SECTION. **Sec. 1.** (1) The portion of statements, writings, or benevolent gestures expressing sympathy or a general sense of benevolence

relating to the pain, suffering, or death of a person involved in an accident, and made to that person or to the family of that person, shall be inadmissible as evidence in a civil action. A statement of fault, however, which is part of, or in addition to, any of the above shall not be made inadmissible by this section.

(2) For purposes of this section:

(a) "Accident" means an occurrence resulting in injury or death to one or more persons that is not the result of willful action by a party.

(b) "Benevolent gestures" means actions that convey a sense of compassion or commiseration emanating from humane impulses.

(c) "Family" means the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted child of a parent, or spouse's parents of an injured party.

NEW SECTION. Sec. 2. Section I of this act constitutes a new chapter in Title 5 RCW.

Passed the Senate February 13, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 335

[Substitute Senate Bill 6439]

PUBLIC RECORDS DISCLOSURE—DOMESTIC SECURITY

AN ACT Relating to exemptions from disclosure of public records for domestic security purposes; reenacting and amending RCW 42.17.310; and creating a new section.

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

Sec. 1. RCW 42.17.310 and 2001 c 278 s 1, 2001 c 98 s 2, and 2001 c 70 s 1 are each reenacted and amended to read as follows:

(1) The following are exempt from public inspection and copying:

(a) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients.

(b) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.

(c) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would (i) be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer.

(d) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the

nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.

(e) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the public disclosure commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the public disclosure commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.

(f) Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.

(g) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, but in no event shall disclosure be denied for more than three years after the appraisal.

(h) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss.

(i) Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended except that a specific record shall not be exempt when publicly cited by an agency in connection with any agency action.

(j) Records which are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts.

(k) Records, maps, or other information identifying the location of archaeological sites in order to avoid the looting or depredation of such sites.

(l) Any library record, the primary purpose of which is to maintain control of library materials, or to gain access to information, which discloses or could be used to disclose the identity of a library user.

(m) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (i) a ferry system construction or repair contract as required by RCW 47.60.680 through 47.60.750 or (ii) highway construction or improvement as required by RCW 47.28.070.

(n) Railroad company contracts filed prior to July 28, 1991, with the utilities and transportation commission under RCW 81.34.070, except that the summaries of the contracts are open to public inspection and copying as otherwise provided by this chapter.

(o) Financial and commercial information and records supplied by private persons pertaining to export services provided pursuant to chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to export projects pursuant to RCW 43.23.035.

(p) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW.

(q) Records filed with the utilities and transportation commission or attorney general under RCW 80.04.095 that a court has determined are confidential under RCW 80.04.095.

(r) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency.

(s) Membership lists or lists of members or owners of interests of units in timeshare projects, subdivisions, camping resorts, condominiums, land developments, or common-interest communities affiliated with such projects, regulated by the department of licensing, in the files or possession of the department.

(t) All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant.

(u) The residential addresses or residential telephone numbers of employees or volunteers of a public agency which are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.

(v) The residential addresses and residential telephone numbers of the customers of a public utility contained in the records or lists held by the public utility of which they are customers, except that this information may be released to the division of child support or the agency or firm providing child support enforcement for another state under Title IV-D of the federal social security act, for the establishment, enforcement, or modification of a support order.

(w)(i) The federal social security number of individuals governed under chapter 18.130 RCW maintained in the files of the department of health, except this exemption does not apply to requests made directly to the department from federal, state, and local agencies of government, and national and state licensing, credentialing, investigatory, disciplinary, and examination organizations; (ii) the current residential address and current residential telephone number of a health care provider governed under chapter 18.130 RCW maintained in the files of the department, if the provider requests that this information be withheld from public inspection and copying, and provides to the department an accurate alternate or business address and business telephone number. On or after January 1, 1995, the current residential address and residential telephone number of a health care provider governed under RCW 18.130.040 maintained in the files of the department shall automatically be withheld from public inspection and copying

unless the provider specifically requests the information be released, and except as provided for under RCW 42.17.260(9).

(x) Information obtained by the board of pharmacy as provided in RCW 69.45.090.

(y) Information obtained by the board of pharmacy or the department of health and its representatives as provided in RCW 69.41.044, 69.41.280, and 18.64.420.

(z) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW.

(aa) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information.

(bb) Financial and valuable trade information under RCW 51.36.120.

(cc) Client records maintained by an agency that is a domestic violence program as defined in RCW 70.123.020 or 70.123.075 or a rape crisis center as defined in RCW 70.125.030.

(dd) Information that identifies a person who, while an agency employee: (i) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (ii) requests his or her identity or any identifying information not be disclosed.

(ee) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment.

(ff) Business related information protected from public inspection and copying under RCW 15.86.110.

(gg) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW.

(hh) Information and documents created specifically for, and collected and maintained by a quality improvement committee pursuant to RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW 4.24.250, regardless of which agency is in possession of the information and documents.

(ii) Personal information in files maintained in a data base created under RCW 43.07.360.

(jj) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010.

(kk) Names of individuals residing in emergency or transitional housing that are furnished to the department of revenue or a county assessor in order to substantiate a claim for property tax exemption under RCW 84.36.043.

(ll) The names, residential addresses, residential telephone numbers, and other individually identifiable records held by an agency in relation to a vanpool, carpool, or other ride-sharing program or service. However, these records may be disclosed to other persons who apply for ride-matching services and who need that information in order to identify potential riders or drivers with whom to share rides.

(mm) The personally identifying information of current or former participants or applicants in a paratransit or other transit service operated for the benefit of persons with disabilities or elderly persons.

(nn) The personally identifying information of persons who acquire and use transit passes and other fare payment media including, but not limited to, stored value smart cards and magnetic strip cards, except that an agency may disclose this information to a person, employer, educational institution, or other entity that is responsible, in whole or in part, for payment of the cost of acquiring or using a transit pass or other fare payment media, or to the news media when reporting on public transportation or public safety. This information may also be disclosed at the agency's discretion to governmental agencies or groups concerned with public transportation or public safety.

(oo) Proprietary financial and commercial information that the submitting entity, with review by the department of health, specifically identifies at the time it is submitted and that is provided to or obtained by the department of health in connection with an application for, or the supervision of, an antitrust exemption sought by the submitting entity under RCW 43.72.310. If a request for such information is received, the submitting entity must be notified of the request. Within ten business days of receipt of the notice, the submitting entity shall provide a written statement of the continuing need for confidentiality, which shall be provided to the requester. Upon receipt of such notice, the department of health shall continue to treat information designated under this section as exempt from disclosure. If the requester initiates an action to compel disclosure under this chapter, the submitting entity must be joined as a party to demonstrate the continuing need for confidentiality.

(pp) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110.

(qq) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.95 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units.

(rr) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained

in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b).

(ss) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers supplied to an agency for the purpose of electronic transfer of funds, except when disclosure is expressly required by law.

(tt) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a liquor license, gambling license, or lottery retail license.

(uu) Records maintained by the employment security department and subject to chapter 50.13 RCW if provided to another individual or organization for operational, research, or evaluation purposes.

(vv) Individually identifiable information received by the work force training and education coordinating board for research or evaluation purposes.

(ww) Those portions of records ~~((containing))~~ assembled, prepared, or maintained to prevent, mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, consisting of:

(i) Specific and unique vulnerability assessments or specific and unique response or deployment plans, ((either of which is intended to prevent or mitigate criminal terrorist acts as defined in RCW 70.74.285, the public disclosure of which would have a substantial likelihood of threatening public safety)) including compiled underlying data collected in preparation of or essential to the assessments, or to the response or deployment plans; and

(ii) Records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for acts of terrorism.

(xx) Commercial fishing catch data from logbooks required to be provided to the department of fish and wildlife under RCW 77.12.047, when the data identifies specific catch location, timing, or methodology and the release of which would result in unfair competitive disadvantage to the commercial fisher providing the catch data. However, this information may be released to government agencies concerned with the management of fish and wildlife resources.

(yy) Sensitive wildlife data obtained by the department of fish and wildlife. However, sensitive wildlife data may be released to government agencies concerned with the management of fish and wildlife resources. Sensitive wildlife data includes:

(i) The nesting sites or specific locations of endangered species designated under RCW 77.12.020, or threatened or sensitive species classified by rule of the department of fish and wildlife;

(ii) Radio frequencies used in, or locational data generated by, telemetry studies; or

(iii) Other location data that could compromise the viability of a specific fish or wildlife population, and where at least one of the following criteria are met:

(A) The species has a known commercial or black market value;

(B) There is a history of malicious take of that species; or

(C) There is a known demand to visit, take, or disturb, and the species behavior or ecology renders it especially vulnerable or the species has an extremely limited distribution and concentration.

(zz) The personally identifying information of persons who acquire recreational licenses under RCW 77.32.010 or commercial licenses under chapter 77.65 or 77.70 RCW, except name, address of contact used by the department, and type of license, endorsement, or tag. However, the department of fish and wildlife may disclose personally identifying information to:

(i) Government agencies concerned with the management of fish and wildlife resources;

(ii) The department of social and health services, child support division, and to the department of licensing in order to implement RCW 77.32.014 and 46.20.291; and

(iii) Law enforcement agencies for the purpose of firearm possession enforcement under RCW 9.41.040.

(aaa) Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

(2) Except for information described in subsection (1)(c)(i) of this section and confidential income data exempted from public inspection pursuant to RCW 84.40.020, the exemptions of this section are inapplicable to the extent that information, the disclosure of which would violate personal privacy or vital governmental interests, can be deleted from the specific records sought. No exemption may be construed to permit the nondisclosure of statistical information not descriptive of any readily identifiable person or persons.

(3) Inspection or copying of any specific records exempt under the provisions of this section may be permitted if the superior court in the county in which the record is maintained finds, after a hearing with notice thereof to every person in interest and the agency, that the exemption of such records is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

(4) Agency responses refusing, in whole or in part, inspection of any public record shall include a statement of the specific exemption authorizing the

withholding of the record (or part) and a brief explanation of how the exemption applies to the record withheld.

NEW SECTION. Sec. 2. No later than September 1, 2004, the joint legislative audit and review committee shall review the effect of RCW 42.17.310(1) (ww) and (aaa) on state agency performance in responding to requests for disclosure of records under chapter 42.17 RCW. In conducting this review the joint legislative audit and review committee shall select a representative sample of requests for public disclosure, and the agencies' responses to those requests, from up to five state agencies. The joint legislative audit and review committee shall report its findings to the legislature no later than November 30, 2004.

Passed the Senate March 13, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 336

[Engrossed Substitute Senate Bill 6700]

PERSONAL INFORMATION—LAW ENFORCEMENT AND COURT EMPLOYEES

AN ACT Relating to limiting publication of personal information of law enforcement-related and court-related employees; and adding new sections to chapter 4.24 RCW.

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

NEW SECTION. Sec. 1. A person or organization shall not, with the intent to harm or intimidate, sell, trade, give, publish, distribute, or otherwise release the residential address, residential telephone number, birthdate, or social security number of any law enforcement-related, corrections officer-related, or court-related employee or volunteer, or someone with a similar name, and categorize them as such, without the express written permission of the employee or volunteer unless specifically exempted by law or court order.

NEW SECTION. Sec. 2. (1) Whenever it appears that any person or organization is engaged in or about to engage in any act that constitutes or will constitute a violation of section 1 of this act, the prosecuting attorney or any person harmed by an alleged violation of section 1 of this act may initiate a civil proceeding in superior court to enjoin such violation, and may petition the court to issue an order for the discontinuance of the dissemination of information in violation of section 1 of this act.

(2) An action under this section shall be brought in the county in which the violation is alleged to have taken place, and shall be commenced by the filing of a verified complaint, or shall be accompanied by an affidavit.

(3) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person or organization is engaged in or about to engage in any act that constitutes a violation of section 1 of this act, the court may issue a

temporary restraining order to abate and prevent the continuance or recurrence of the act.

(4) The court may issue a permanent injunction to restrain, abate, or prevent the continuance or recurrence of the violation of section 1 of this act. The court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction. The court may retain jurisdiction of the case for the purpose of enforcing its orders.

NEW SECTION. Sec. 3. Any law enforcement-related, corrections officer-related, or court-related employee or volunteer who suffers damages as a result of a person or organization selling, trading, giving, publishing, distributing, or otherwise releasing the residential address, residential telephone number, birthdate, or social security number of the employee or volunteer in violation of section 1 of this act may bring an action against the person or organization in court for actual damages sustained, plus attorneys' fees and costs.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act are each added to chapter 4.24 RCW.

Passed the Senate March 11, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 337

[Second Substitute House Bill 2663]

FIRE FIGHTERS—OCCUPATIONAL DISEASES

AN ACT Relating to occupational diseases affecting fire fighters; amending RCW 51.32.185; and creating a new section.

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

****NEW SECTION. Sec. 1. (1) The legislature finds that:***

(a) Benzene is detected in most fire environments and has been associated with leukemia and multiple myeloma. Given the established exposure to benzene in a fire environment, there is biologic plausibility for fire fighters to be at increased risk of these malignancies;

(b) Increased risks of leukemia and lymphoma have been described in several epidemiologic studies of fire fighters. The risks of leukemia are often two or three times that of the population as a whole, and a two-fold risk of non-Hodgkin's lymphoma has also been found;

(c) Epidemiologic studies assessing fire fighters' cancer risks concluded that there is inadequate support for a causal relationship between fire fighting and brain cancer;

(d) Fire fighters are exposed to polycyclic aromatic hydrocarbons as products of combustion and these chemicals have been associated with bladder

cancer. The epidemiologic data suggests fire fighters have a three-fold risk of bladder cancer compared to the population as a whole;

(e) A 1990 review of fire fighter epidemiology calculated a statistically significant risk for melanoma among fire fighters;

(f) Fire fighters are exposed to extremely hazardous environments. Potentially lethal products of combustion include particulates and gases and are the major source of fire fighter exposures to toxic chemicals; and

(g) The burning of a typical urban structure containing woods, paints, glues, plastics, and synthetic materials in furniture, carpeting, and insulation liberates hundreds of chemicals. Fire fighters are exposed to a wide variety of potential carcinogens, including polycyclic aromatic hydrocarbons in soots, tars, and diesel exhaust, arsenic in wood preservatives, formaldehyde in wood smoke, and asbestos in building insulation.

(2) The legislature further finds that some occupational diseases resulting from fire fighter working conditions can develop slowly, usually manifesting themselves years after exposure.

*Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 51.32.185 and 1987 c 515 s 2 are each amended to read as follows:

(1) In the case of fire fighters as defined in RCW 41.26.030(4) (a), (b), and (c) who are covered under Title 51 RCW and fire fighters, including supervisors, employed on a full-time, fully compensated basis as a fire fighter of a private sector employer's fire department that includes over fifty such fire fighters, there shall exist a prima facie presumption that: (a) Respiratory disease ((~~is an~~)); (b) heart problems that are experienced within seventy-two hours of exposure to smoke, fumes, or toxic substances; (c) cancer; and (d) infectious diseases are occupational diseases under RCW 51.08.140. This presumption of occupational disease may be rebutted by a preponderance of the evidence ((~~controversing the presumption~~)). ((~~Controversing~~)) Such evidence may include, but is not limited to, use of tobacco products, physical fitness and weight, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities.

(2) The presumptions established in subsection (1) of this section shall be extended to an applicable member following termination of service for a period of three calendar months for each year of requisite service, but may not extend more than sixty months following the last date of employment.

(3) The presumption established in subsection (1)(c) of this section shall only apply to any active or former fire fighter who has cancer that develops or manifests itself after the fire fighter has served at least ten years and who was given a qualifying medical examination upon becoming a fire fighter that showed no evidence of cancer. The presumption within subsection (1)(c) of this section shall only apply to primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma, bladder cancer, ureter cancer, and kidney cancer.

(4) The presumption established in subsection (1)(d) of this section shall be extended to any fire fighter who has contracted any of the following infectious diseases: Human immunodeficiency virus/acquired immunodeficiency syndrome, all strains of hepatitis, meningococcal meningitis, or mycobacterium tuberculosis.

(5) Beginning July 1, 2003, this section does not apply to a fire fighter who develops a heart or lung condition and who is a regular user of tobacco products or who has a history of tobacco use. The department, using existing medical research, shall define in rule the extent of tobacco use that shall exclude a fire fighter from the provisions of this section.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 3, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 3, 2002.

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

"I am returning herewith, without my approval as to section 1, Second Substitute House Bill No. 2663 entitled:

"AN ACT Relating to occupational diseases affecting fire fighters;"

Second Substitute House Bill No. 2663 creates a rebuttable prima facie presumption that certain heart problems, cancer and infectious diseases are occupational diseases for fire fighters covered by industrial insurance. This is a law that I strongly support.

However, the assumptions in section 1 of this bill have not been clearly validated by science and medicine. Allowing those assumptions to become law could have several unintended consequences, including modifying the legal basis of the presumptions in section 2 of the bill, providing an avenue for the allowance of disease claims in other industries; and unnecessarily limiting the use of new scientific information in administering occupational disease claims.

For these reasons, I have vetoed section 1 of Second Substitute House Bill No. 2663.

With the exception of section 1, Second Substitute House Bill No. 2663 is approved."

CHAPTER 338

[Substitute House Bill 2754]

MANDATORY ARBITRATION—FILING FEES

AN ACT Relating to mandatory arbitration; and amending RCW 7.06.010, 36.18.016, and 7.36.250.

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

Sec. 1. RCW 7.06.010 and 1991 c 363 s 7 are each amended to read as follows:

In counties with a population of more than one hundred fifty thousand, mandatory arbitration of civil actions under this chapter shall be required. In counties with a population of ((seventy thousand or more)) one hundred fifty thousand or less, the superior court of the county, by majority vote of the judges thereof, or the county legislative authority may authorize mandatory arbitration of civil actions under this chapter. ((In all other counties, the superior court of the

~~county, by a majority vote of the judges thereof, may authorize mandatory arbitration of civil actions under this chapter.))~~

Sec. 2. RCW 36.18.016 and 2001 c 146 s 2 are each amended to read as follows:

(1) Revenue collected under this section is not subject to division under RCW 36.18.025 or 27.24.070.

(2) For the filing of a petition for modification of a decree of dissolution or paternity, within the same case as the original action, a fee of twenty dollars must be paid.

(3)(a) The party making a demand for a jury of six in a civil action shall pay, at the time, a fee of one hundred twenty-five dollars; if the demand is for a jury of twelve, a fee of two hundred fifty dollars. If, after the party demands a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional one hundred twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(b) Upon conviction in criminal cases a jury demand charge of fifty dollars for a jury of six, or one hundred dollars for a jury of twelve may be imposed as costs under RCW 10.46.190.

(4) For preparing, transcribing, or certifying an instrument on file or of record in the clerk's office, with or without seal, for the first page or portion of the first page, a fee of two dollars, and for each additional page or portion of a page, a fee of one dollar must be charged. For authenticating or exemplifying an instrument, a fee of one dollar for each additional seal affixed must be charged.

(5) For executing a certificate, with or without a seal, a fee of two dollars must be charged.

(6) For a garnishee defendant named in an affidavit for garnishment and for a writ of attachment, a fee of twenty dollars must be charged.

(7) For approving a bond, including justification on the bond, in other than civil actions and probate proceedings, a fee of two dollars must be charged.

(8) For the issuance of a certificate of qualification and a certified copy of letters of administration, letters testamentary, or letters of guardianship, there must be a fee of two dollars.

(9) For the preparation of a passport application, the clerk may collect an execution fee as authorized by the federal government.

(10) For clerk's services such as processing ex parte orders, performing historical searches, compiling statistical reports, and conducting exceptional record searches, the clerk may collect a fee not to exceed twenty dollars per hour or portion of an hour.

(11) For duplicated recordings of court's proceedings there must be a fee of ten dollars for each audio tape and twenty-five dollars for each video tape.

(12) For the filing of oaths and affirmations under chapter 5.28 RCW, a fee of twenty dollars must be charged.

(13) For filing a disclaimer of interest under RCW 11.86.031(4), a fee of two dollars must be charged.

(14) For registration of land titles, Torrens Act, under RCW 65.12.780, a fee of five dollars must be charged.

(15) For the issuance of extension of judgment under RCW 6.17.020 and chapter 9.94A RCW, a fee of one hundred ten dollars must be charged.

(16) A facilitator surcharge of ten dollars must be charged as authorized under RCW 26.12.240.

(17) For filing a water rights statement under RCW 90.03.180, a fee of twenty-five dollars must be charged.

(18) A service fee of three dollars for the first page and one dollar for each additional page must be charged for receiving faxed documents, pursuant to Washington state rules of court, general rule 17.

(19) For preparation of clerk's papers under RAP 9.7, a fee of fifty cents per page must be charged.

(20) For copies and reports produced at the local level as permitted by RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(21) Investment service charge and earnings under RCW 36.48.090 must be charged.

(22) Costs for nonstatutory services rendered by clerk by authority of local ordinance or policy must be charged.

(23) For filing a request for mandatory arbitration, a filing fee may be assessed against the party filing a statement of arbitrability not to exceed ~~((one))~~ two hundred twenty dollars as established by authority of local ordinance ~~((and approved by a vote of the people if it is determined by a court of competent jurisdiction that such a vote is required by chapter 1, Laws of 2000 (Initiative Measure No. 695)))~~. This charge shall be used solely to offset the cost of the mandatory arbitration program.

(24) For filing a request for trial de novo of an arbitration award, a fee not to exceed two hundred fifty dollars as established by authority of local ordinance must be charged.

Sec. 3. RCW 7.36.250 and 1947 c 256 s 1 are each amended to read as follows:

Any person entitled to prosecute a writ of habeas corpus who, by reason of poverty is unable to pay the costs of such proceeding or give security therefor, may file in the court having original jurisdiction of the proceeding an affidavit setting forth such facts and that he or she believes himself or herself to be entitled to the redress sought. Upon the filing of such an affidavit the court may, if satisfied that the proceeding or appeal is instituted or taken in good faith, order that such proceeding, including appeal, may be prosecuted without prepayment of fees or costs or the giving of security therefor. This section also applies to filing fees assessed under RCW 36.18.016.

Passed the House February 18, 2002.
 Passed the Senate March 4, 2002.
 Approved by the Governor April 3, 2002.
 Filed in Office of Secretary of State April 3, 2002.

CHAPTER 339

[Senate Bill 5373]

ARBITRATION—OFFER OF COMPROMISE

AN ACT Relating to mandatory arbitration of civil actions; amending RCW 7.06.050 and 7.06.060; and adding a new section to chapter 7.06 RCW.

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

Sec. 1. RCW 7.06.050 and 1982 c 188 s 2 are each amended to read as follows:

(1) Following a hearing as prescribed by court rule, the arbitrator shall file his decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, any aggrieved party may file with the clerk a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. Such trial de novo shall thereupon be held, including a right to jury, if demanded.

(a) Up to thirty days prior to the actual date of a trial de novo, a nonappealing party may serve upon the appealing party a written offer of compromise.

(b) In any case in which an offer of compromise is not accepted by the appealing party within ten calendar days after service thereof, for purposes of MAR 7.3, the amount of the offer of compromise shall replace the amount of the arbitrator's award for determining whether the party appealing the arbitrator's award has failed to improve that party's position on the trial de novo.

(c) A postarbitration offer of compromise shall not be filed or communicated to the court or the trier of fact until after judgment on the trial de novo, at which time a copy of the offer of compromise shall be filed for purposes of determining whether the party who appealed the arbitrator's award has failed to improve that party's position on the trial de novo, pursuant to MAR 7.3.

(2) If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions.

Sec. 2. RCW 7.06.060 and 1979 c 103 s 6 are each amended to read as follows:

(1) The ~~((supreme))~~ superior court ~~((may by rule provide for))~~ shall assess costs and reasonable attorney's fees ~~((that may be assessed))~~ against a party ~~((appealing from))~~ who appeals the award ~~((who))~~ and fails to improve his or her position on the trial de novo. The court may assess costs and reasonable attorneys' fees against a party who voluntarily withdraws a request for a trial de novo if the

withdrawal is not requested in conjunction with the acceptance of an offer of compromise.

(2) For the purposes of this section, "costs and reasonable attorneys' fees" means those provided for by statute or court rule, or both, as well as all expenses related to expert witness testimony, that the court finds were reasonably necessary after the request for trial de novo has been filed.

(3) If the prevailing party in the arbitration also prevails at the trial de novo, even though at the trial de novo the appealing party may have improved his or her position from the arbitration, this section does not preclude the prevailing party from recovering those costs and disbursements otherwise allowed under chapter 4.84 RCW, for both actions.

NEW SECTION. Sec. 3. A new section is added to chapter 7.06 RCW to read as follows:

RCW 7.06.050 and 7.06.060 apply to all requests for a trial de novo filed pursuant to and in appeal of an arbitrator's decision and filed on or after the effective date of this act.

Passed the Senate February 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 340

[Engrossed Substitute House Bill 2505]

CIVIL DISORDER TRAINING

AN ACT Relating to instruction in civil disorder; reenacting and amending RCW 9.94A.515; adding a new section to chapter 9A.48 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 9A.48 RCW to read as follows:

(1) A person is guilty of civil disorder training if he or she teaches or demonstrates to any other person the use, application, or making of any device or technique capable of causing significant bodily injury or death to persons, knowing, or having reason to know or intending that same will be unlawfully employed for use in, or in furtherance of, a civil disorder.

(2) Civil disorder training is a class B felony.

(3) Nothing in this section makes unlawful any act of any law enforcement officer that is performed in the lawful performance of his or her official duties.

(4) Nothing in this section makes unlawful any act of firearms training, target shooting, or other firearms activity, so long as it is not done for the purpose of furthering a civil disorder.

(5) For the purposes of this section:

(a) "Civil disorder" means any public disturbance involving acts of violence that is intended to cause an immediate danger of, or to result in, significant injury to the person of any other individual.

(b) "Law enforcement officer" means any law enforcement officer as defined in RCW 9A.76.020(2) including members of the Washington national guard, as defined in RCW 38.04.010.

Sec. 2. RCW 9.94A.515 and 2001 2nd sp.s. c 12 s 361, 2001 c 300 s 4, 2001 c 217 s 12, and 2001 c 17 s 1 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050)
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076)
X	Child Molestation 1 (RCW 9A.44.083) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Kidnapping 1 (RCW 9A.40.020) Leading Organized Crime (RCW 9A.82.060(1)(a)) Malicious explosion 3 (RCW 70.74.280(3)) Manufacture of methamphetamine (RCW 69.50.401(a)(1)(ii)) Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18 (RCW 69.50.406)

- Sexually Violent Predator Escape (RCW 9A.76.115)
- IX Assault of a Child 2 (RCW 9A.36.130)
- Controlled Substance Homicide (RCW 69.50.415)
- Explosive devices prohibited (RCW 70.74.180)
- Hit and Run—Death (RCW 46.52.020(4)(a))
- Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- Malicious placement of an explosive 2 (RCW 70.74.270(2))
- Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)
- Robbery 1 (RCW 9A.56.200)
- Sexual Exploitation (RCW 9.68A.040)
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)
- Deliver or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)
- Manslaughter 2 (RCW 9A.32.070)
- Manufacture, deliver, or possess with intent to deliver amphetamine (RCW 69.50.401(a)(1)(ii))
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine (RCW 69.50.440)
- Promoting Prostitution 1 (RCW 9A.88.070)

Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
Theft of Anhydrous Ammonia (RCW 69.55.010)
Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)

VII

Burglary 1 (RCW 9A.52.020)
Child Molestation 2 (RCW 9A.44.086)
Civil Disorder Training (section 1 of this act)
Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
Drive-by Shooting (RCW 9A.36.045)
Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)
Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
Introducing Contraband 1 (RCW 9A.76.140)
Involving a minor in drug dealing (RCW 69.50.401(f))
Malicious placement of an explosive 3 (RCW 70.74.270(3))
Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
Unlawful Possession of a Firearm in the first degree (RCW 9A.040(1)(a))
Use of a Machine Gun in Commission of a Felony (RCW 9A.225)
Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)

VI

Bail Jumping with Murder 1 (RCW 9A.76.170(3)(a))
Bribery (RCW 9A.68.010)
Incest 1 (RCW 9A.64.020(1))
Intimidating a Judge (RCW 9A.72.160)
Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
Malicious placement of an imitation device 2 (RCW 70.74.272(1)(b))

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV (RCW 69.50.401(a)(1)(i))
- Rape of a Child 3 (RCW 9A.44.079)
- Theft of a Firearm (RCW 9A.56.300)
- Unlawful Storage of Anhydrous Ammonia (RCW 69.55.020)
- V
 - Abandonment of dependent person 1 (RCW 9A.42.060)
 - Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
 - Bail Jumping with class A Felony (RCW 9A.76.170(3)(b))
 - Child Molestation 3 (RCW 9A.44.089)
 - Criminal Mistreatment 1 (RCW 9A.42.020)
 - Custodial Sexual Misconduct 1 (RCW 9A.44.160)
 - Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
 - Domestic Violence Court Order Violation (RCW 10.99.040, 10.99.050, 26.09.300, 26.10.220, 26.26.138, 26.50.110, 26.52.070, or 74.34.145)
 - Extortion 1 (RCW 9A.56.120)
 - Extortionate Extension of Credit (RCW 9A.82.020)
 - Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
 - Incest 2 (RCW 9A.64.020(2))
 - Kidnapping 2 (RCW 9A.40.030)
 - Perjury 1 (RCW 9A.72.020)
 - Persistent prison misbehavior (RCW 9.94.070)
 - Possession of a Stolen Firearm (RCW 9A.56.310)
 - Rape 3 (RCW 9A.44.060)
 - Rendering Criminal Assistance 1 (RCW 9A.76.070)
 - Sexual Misconduct with a Minor 1 (RCW 9A.44.093)

- Sexually Violating Human Remains (RCW 9A.44.105)
- Stalking (RCW 9A.46.110)
- IV Arson 2 (RCW 9A.48.030)
- Assault 2 (RCW 9A.36.021)
- Assault by Watercraft (RCW 79A.60.060)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Commercial Bribery (RCW 9A.68.060)
- Counterfeiting (RCW 9.16.035(4))
- Escape 1 (RCW 9A.76.110)
- Hit and Run—Injury (RCW 46.52.020(4)(b))
- Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))
- Identity Theft 1 (RCW 9.35.020(2)(a))
- Indecent Exposure to Person Under Age Fourteen (subsequent sex offense) (RCW 9A.88.010)
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- Malicious Harassment (RCW 9A.36.080)
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(a)(1) (iii) through (v))
- Residential Burglary (RCW 9A.52.025)
- Robbery 2 (RCW 9A.56.210)
- Theft of Livestock 1 (RCW 9A.56.080)
- Threats to Bomb (RCW 9.61.160)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Vehicular Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- III Abandonment of dependent person 2 (RCW 9A.42.070)

Assault 3 (RCW 9A.36.031)
Assault of a Child 3 (RCW 9A.36.140)
Bail Jumping with class B or C Felony (RCW 9A.76.170(3)(c))
Burglary 2 (RCW 9A.52.030)
Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
Criminal Gang Intimidation (RCW 9A.46.120)
Criminal Mistreatment 2 (RCW 9A.42.030)
Custodial Assault (RCW 9A.36.100)
Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
Escape 2 (RCW 9A.76.120)
Extortion 2 (RCW 9A.56.130)
Harassment (RCW 9A.46.020)
Intimidating a Public Servant (RCW 9A.76.180)
Introducing Contraband 2 (RCW 9A.76.150)
Maintaining a Dwelling or Place for Controlled Substances (RCW 69.50.402(a)(6))
Malicious Injury to Railroad Property (RCW 81.60.070)
Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(iii))
Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
Patronizing a Juvenile Prostitute (RCW 9.68A.100)
Perjury 2 (RCW 9A.72.030)
Possession of Incendiary Device (RCW 9.40.120)
Possession of Machine Gun or Short-Barreled Shotgun or Rifle (RCW 9.41.190)
Promoting Prostitution 2 (RCW 9A.88.080)
Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
Securities Act violation (RCW 21.20.400)
Tampering with a Witness (RCW 9A.72.120)
Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230)
Theft of Livestock 2 (RCW 9A.56.080)

Unlawful Imprisonment (RCW 9A.40.040)
Unlawful possession of firearm in the second degree (RCW 9A.41.040(1)(b))
Unlawful Use of Building for Drug Purposes (RCW 69.53.010)
Vehicular Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)
Willful Failure to Return from Work Release (RCW 72.65.070)

- II
- Computer Trespass 1 (RCW 9A.52.110)
 - Counterfeiting (RCW 9.16.035(3))
 - Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
 - Escape from Community Custody (RCW 72.09.310)
 - Health Care False Claims (RCW 48.80.030)
 - Identity Theft 2 (RCW 9.35.020(2)(b))
 - Improperly Obtaining Financial Information (RCW 9.35.010)
 - Malicious Mischief 1 (RCW 9A.48.070)
 - Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(d))
 - Possession of phencyclidine (PCP) (RCW 69.50.401(d))
 - Possession of Stolen Property 1 (RCW 9A.56.150)
 - Theft 1 (RCW 9A.56.030)
 - Theft of Rental, Leased, or Lease-purchased Property (valued at one thousand five hundred dollars or more) (RCW 9A.56.096(4))
 - Trafficking in Insurance Claims (RCW 48.30A.015)
 - Unlawful Practice of Law (RCW 2.48.180)
 - Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))
- I
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
 - False Verification for Welfare (RCW 74.08.055)

Forged Prescription (RCW 69.41.020)
 Forged Prescription for a Controlled Substance
 (RCW 69.50.403)
 Forgery (RCW 9A.60.020)
 Malicious Mischief 2 (RCW 9A.48.080)
 Possess Controlled Substance that is a Narcotic
 from Schedule III, IV, or V or Non-
 narcotic from Schedule I-V . (except
 phencyclidine or flunitrazepam) (RCW
 69.50.401(d))
 Possession of Stolen Property 2 (RCW
 9A.56.160)
 Reckless Burning 1 (RCW 9A.48.040)
 Taking Motor Vehicle Without Permission
 (RCW 9A.56.070)
 Theft 2 (RCW 9A.56.040)
 Theft of Rental, Leased, or Lease-purchased
 Property (valued at two hundred fifty
 dollars or more but less than one thousand
 five hundred dollars) (RCW
 9A.56.096(4))
 Unlawful Issuance of Checks or Drafts (RCW
 9A.56.060)
 Unlawful Use of Food Stamps (RCW 9.91.140
 (2) and (3))
 Vehicle Prowl 1 (RCW 9A.52.095)

Passed the House March 11, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 341

[House Bill 2595]

ENHANCED 911 SERVICE

AN ACT Relating to a state wireless enhanced 911 excise tax; amending RCW 38.52.010, 38.52.530, 38.52.540, 38.52.550, 82.14B.020, 82.14B.030, 82.14B.040, 82.14B.042, 82.14B.061, and 82.14B.200; adding a new section to chapter 38.52 RCW; creating a new section; repealing RCW 38.52.560; and providing an effective date.

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

NEW SECTION. Sec. I. The legislature finds that statewide enhanced 911 has proven to be a lifesaving service and that routing a 911 call to the appropriate public safety answering point with a display of the caller's identification and location should be available for all users of telecommunications services,

regardless of the technology used to make and transmit the 911 call. The legislature also finds that it is in the best public interest to ensure that there is adequate ongoing funding to support enhanced 911 service.

Sec. 2. RCW 38.52.010 and 1997 c 49 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person, including but not limited to an architect registered under chapter 18.08 RCW or a professional engineer registered under chapter 18.43 RCW, who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (I) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological,

or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, fire fighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide fire fighting, police, ambulance, medical, or other emergency services.

(15) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

(16) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

Sec. 3. RCW 38.52.530 and 2000 c 34 s 1 are each amended to read as follows:

The enhanced 911 advisory committee is created to advise and assist the state enhanced 911 coordinator in coordinating and facilitating the implementation and

operation of enhanced 911 throughout the state. The director shall appoint members of the committee who represent diverse geographical areas of the state and include state residents who are members of the national emergency number association, the associated public communications officers Washington chapter, the Washington state fire chiefs association, the Washington association of sheriffs and police chiefs, the Washington state council of fire fighters, the Washington state council of police officers, the Washington ambulance association, the state fire protection policy board, the Washington fire commissioners association, the Washington state patrol, the association of Washington cities, the Washington state association of counties, the utilities and transportation commission or commission staff, and an equal number of representatives of large and small local exchange telephone companies and large and small radio communications service companies offering commercial mobile radio service in the state. This section expires December 31, 2006.

Sec. 4. RCW 38.52.540 and 2001 c 128 s 2 are each amended to read as follows:

(1) The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise (~~(tax)~~) taxes imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to support the statewide coordination and management of the enhanced 911 system, for the implementation of wireless enhanced 911 statewide, and to help supplement, within available funds, the operational costs of the system, including adequate funding of counties to enable implementation of wireless enhanced 911 service and reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 911 service pursuant to negotiated contracts between the counties or their agents and the radio communications service companies.

(2) Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(3) shall not be distributed to any county that has not imposed the maximum county enhanced 911 (~~(taxes)~~) tax allowed under RCW 82.14B.030(1) (~~(and (2))~~). Funds generated by the enhanced 911 excise tax imposed by RCW 82.14B.030(4) shall not be distributed to any county that has not imposed the maximum county enhanced 911 tax allowed under RCW 82.14B.030(2).

(3) The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account.

Sec. 5. RCW 38.52.550 and 1991 c 329 s 7 are each amended to read as follows:

A telecommunications company, or radio communications service company, providing emergency communications systems or services or a business or individual providing data base information to emergency communication system

personnel shall not be liable for civil damages caused by an act or omission of the company, business, or individual in the:

(1) Good faith release of information not in the public record, including unpublished or unlisted subscriber information to emergency service providers responding to calls placed to a 911 or enhanced 911 emergency service; or

(2) Design, development, installation, maintenance, or provision of consolidated 911 or enhanced 911 emergency communication systems or services other than an act or omission constituting gross negligence or wanton or willful misconduct.

NEW SECTION. **Sec. 6.** A new section is added to chapter 38.52 RCW to read as follows:

The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, shall set nondiscriminatory, uniform technical and operational standards consistent with the rules of the federal communications commission for the transmission of 911 calls from radio communications service companies to enhanced 911 emergency communications systems. These standards must not exceed the requirements set by the federal communications commission. The authority given to the state enhanced 911 coordinator in this section is limited to setting standards as set forth in this section and does not constitute authority to regulate radio communications service companies.

Sec. 7. RCW 82.14B.020 and 1998 c 304 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Emergency services communication system" means a multicounty, countywide, or districtwide radio or landline communications network, including an enhanced 911 telephone system, which provides rapid public access for coordinated dispatching of services, personnel, equipment, and facilities for police, fire, medical, or other emergency services.

(2) "Enhanced 911 telephone system" means a public telephone system consisting of a network, data base, and on-premises equipment that is accessed by dialing 911 and that enables reporting police, fire, medical, or other emergency situations to a public safety answering point. The system includes the capability to selectively route incoming 911 calls to the appropriate public safety answering point that operates in a defined 911 service area and the capability to automatically display the name, address, and telephone number of incoming 911 calls at the appropriate public safety answering point.

(3) "Switched access line" means the telephone service line which connects a subscriber's main telephone(s) or equivalent main telephone(s) to the local exchange company's switching office.

(4) "Local exchange company" has the meaning ascribed to it in RCW 80.04.010.

(5) "Radio access line" means the telephone number assigned to or used by a subscriber for two-way local wireless voice service available to the public for hire

from a radio communications service company. Radio access lines include, but are not limited to, radio-telephone communications lines used in cellular telephone service, personal communications services, and network radio access lines, or their functional and competitive equivalent. Radio access lines do not include lines that provide access to one-way signaling service, such as paging service, or to communications channels suitable only for data transmission, or to nonlocal radio access line service, such as wireless roaming service, or to a private telecommunications system.

(6) "Radio communications service company" has the meaning ascribed to it in RCW 80.04.010, except that it does not include radio paging providers. It does include those persons or entities that provide commercial mobile radio services, as defined by 47 U.S.C. Sec. 332(d)(1), and both facilities-based and nonfacilities-based resellers.

(7) "Private telecommunications system" has the meaning ascribed to it in RCW 80.04.010.

(8) "Subscriber" means the retail purchaser of telephone service as telephone service is defined in RCW 82.04.065(3).

(9) "Place of primary use" has the meaning ascribed to it in the federal mobile telecommunications sourcing act, P.L. 106-252.

Sec. 8. RCW 82.14B.030 and 1998 c 304 s 3 are each amended to read as follows:

(1) The legislative authority of a county may impose a county enhanced 911 excise tax on the use of switched access lines in an amount not exceeding fifty cents per month for each switched access line. The amount of tax shall be uniform for each switched access line. Each county shall provide notice of such tax to all local exchange companies serving in the county at least sixty days in advance of the date on which the first payment is due.

(2) The legislative authority of a county may also impose a county enhanced 911 excise tax on the use of radio access lines whose place of primary use is located within the county in an amount not exceeding (~~((twenty-five))~~ fifty) cents per month for each radio access line. The amount of tax shall be uniform for each radio access line. The county shall provide notice of such tax to all radio communications service companies serving in the county at least sixty days in advance of the date on which the first payment is due. Any county imposing this tax shall include in its ordinance a refund mechanism whereby the amount of any tax ordered to be refunded by the judgment of a court of record, or as a result of the resolution of any appeal therefrom, shall be refunded to the radio communications service company or local exchange company that collected the tax, and those companies shall reimburse the subscribers who paid the tax. The ordinance shall further provide that to the extent the subscribers who paid the tax cannot be identified or located, the tax paid by those subscribers shall be returned to the county.

(3) A state enhanced 911 excise tax is imposed on all switched access lines in the state. The amount of tax shall not exceed twenty cents per month for each switched access line. The tax shall be uniform for each switched access line. The tax imposed under this subsection shall be remitted to the department of revenue by local exchange companies on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540.

(4) A state enhanced 911 excise tax is imposed on all radio access lines whose place of primary use is located within the state in an amount of twenty cents per month for each radio access line. The tax shall be uniform for each radio access line. The tax imposed under this section shall be remitted to the department of revenue by radio communications service companies, including those companies that resell radio access lines, on a tax return provided by the department. Tax proceeds shall be deposited by the treasurer in the enhanced 911 account created in RCW 38.52.540. The tax imposed under this section is not subject to the state sales and use tax or any local tax.

(5) By August 31st of each year the state enhanced 911 coordinator shall recommend the level for the next year of the state enhanced 911 excise tax imposed by subsection (3) of this section, based on a systematic cost and revenue analysis, to the utilities and transportation commission. The commission shall by the following October 31st determine the level of the state enhanced 911 excise tax for the following year.

Sec. 9. RCW 82.14B.040 and 1998 c 304 s 4 are each amended to read as follows:

The state enhanced 911 tax and the county enhanced 911 tax on switched access lines shall be collected from the subscriber by the local exchange company providing the switched access line. The state enhanced 911 tax and the county 911 tax on radio access lines shall be collected from the subscriber by the radio communications service company providing the radio access line to the subscriber. The amount of the tax shall be stated separately on the billing statement which is sent to the subscriber.

Sec. 10. RCW 82.14B.042 and 2000 c 106 s 2 are each amended to read as follows:

(1) The state enhanced 911 excise ~~((tax))~~ taxes imposed by this chapter must be paid by the subscriber to the local exchange company providing the switched access line or the radio communications service company providing the radio access line, and each local exchange company and each radio communications service company shall collect from the subscriber the full amount of the ~~((tax))~~ taxes payable. The state enhanced 911 excise ~~((tax))~~ taxes required by this chapter to be collected by the local exchange company ~~((is))~~ or the radio communications service company are deemed to be held in trust by the local exchange company or the radio communications service company until paid to the department. Any local exchange company or radio communications service company that appropriates or

converts the tax collected to its own use or to any use other than the payment of the tax to the extent that the money collected is not available for payment on the due date as prescribed in this chapter is guilty of a gross misdemeanor.

(2) If any local exchange company or radio communications service company fails to collect the state enhanced 911 excise tax or, after collecting the tax, fails to pay it to the department in the manner prescribed by this chapter, whether such failure is the result of its own act or the result of acts or conditions beyond its control, the local exchange company or the radio communications service company is personally liable to the state for the amount of the tax, unless the local exchange company or the radio communications service company has taken from the buyer in good faith a properly executed resale certificate under RCW 82.14B.200.

(3) The amount of tax, until paid by the subscriber to the local exchange company, the radio communications service company, or to the department, constitutes a debt from the subscriber to the local exchange company or the radio communications service company. Any local exchange company or radio communications service company that fails or refuses to collect the tax as required with intent to violate the provisions of this chapter or to gain some advantage or benefit, either direct or indirect, and any subscriber who refuses to pay any tax due under this chapter is guilty of a misdemeanor. The state enhanced 911 excise ~~((tax))~~ taxes required by this chapter to be collected by the local exchange company or the radio communications service company must be stated separately on the billing statement that is sent to the subscriber.

(4) If a subscriber has failed to pay to the local exchange company or the radio communications service company the state enhanced 911 excise ~~((tax))~~ taxes imposed by this chapter and the local exchange company or the radio communications service company has not paid the amount of the tax to the department, the department may, in its discretion, proceed directly against the subscriber for collection of the tax, in which case a penalty of ten percent may be added to the amount of the tax for failure of the subscriber to pay the tax to the local exchange company or the radio communications service company, regardless of when the tax is collected by the department. Tax under this chapter is due as provided under RCW 82.14B.061.

Sec. 11. RCW 82.14B.061 and 2000 c 106 s 3 are each amended to read as follows:

(1) The department of revenue shall administer and shall adopt such rules as may be necessary to enforce and administer the state enhanced 911 excise ~~((tax))~~ taxes imposed by this chapter. Chapter 82.32 RCW, with the exception of RCW 82.32.045, 82.32.145, and 82.32.380, applies to the administration, collection, and enforcement of the state enhanced 911 excise ~~((tax))~~ taxes.

(2) The state enhanced 911 excise ~~((tax))~~ taxes imposed by this chapter, along with reports and returns on forms prescribed by the department, are due at the same time the taxpayer reports other taxes under RCW 82.32.045. If no other taxes are

reported under RCW 82.32.045, the taxpayer shall remit tax on an annual basis in accordance with RCW 82.32.045.

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

(4) The state enhanced 911 excise ~~((tax))~~ taxes imposed by this chapter ~~((is))~~ are in addition to any taxes imposed upon the same persons under chapters 82.08 and 82.12 RCW.

Sec. 12. RCW 82.14B.200 and 1998 c 304 s 10 are each amended to read as follows:

(1) Unless a local exchange company or a radio communications service company has taken from the buyer a resale certificate or equivalent document under RCW 82.04.470, the burden of proving that a sale of the use of a switched access ~~((times [line]))~~ line or radio access line was not a sale to a subscriber is upon the person who made the sale.

(2) If a local exchange company or a radio communications service company does not receive a resale certificate at the time of the sale, have a resale certificate on file at the time of the sale, or obtain a resale certificate from the buyer within a reasonable time after the sale, the local exchange company or the radio communications service company remains liable for the tax as provided in RCW 82.14B.042, unless the local exchange company or the radio communications service company can demonstrate facts and circumstances according to rules adopted by the department of revenue that show the sale was properly made without payment of the state enhanced 911 excise tax.

(3) The penalty imposed by RCW 82.32.291 may not be assessed on state enhanced 911 excise taxes due but not paid as a result of the improper use of a resale certificate. This subsection does not prohibit or restrict the application of other penalties authorized by law.

NEW SECTION. **Sec. 13.** RCW 38.52.560 (Automatic number identification—Wireless two-way telecommunications service) and 1994 c 96 s 5 are each repealed.

NEW SECTION. **Sec. 14.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 15.** This act takes effect January 1, 2003.

Passed the House February 19, 2002.

Passed the Senate March 5, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 342

[Substitute House Bill 2926]

STATE LIBRARY

AN ACT Relating to a state library; amending RCW 27.04.010, 27.04.045, 27.04.055, 40.06.020, and 40.06.040; adding a new section to chapter 27.04 RCW; repealing RCW 27.04.020 and 27.04.030; 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 27.04 RCW to read as follows:

(1) The state library commission is hereby abolished and its powers, duties, and functions are hereby transferred to the office of the secretary of state. All references to the state library commission in the Revised Code of Washington shall be construed to mean the secretary of state or the office of the secretary of state.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the state library commission or the state library shall be delivered to the custody of the office of the secretary of state. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the state library commission or the state library shall be made available to the office of the secretary of state. All funds, credits, or other assets held by the state library commission or the state library shall be assigned to the office of the secretary of state.

(b) Any appropriations made to the state library commission or the state library shall, on the effective date of this section, be transferred and credited to the office of the secretary of state.

(c) If 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.

(3) All employees of the state library commission and the state library are transferred to the jurisdiction of the office of the secretary of state. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the office of the secretary of state to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the state library commission or the state library shall be continued and acted upon by the office of the secretary of state. All existing contracts and obligations shall remain in full force and shall be performed by the office of the secretary of state.

(5) The transfer of the powers, duties, functions, and personnel of the state library commission and the state library shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the

apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) Nothing contained in this section 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 resources board as provided by law.

(8) Subsequent to the merger of the state library into the office of the secretary of state, any reduction-in-force actions that occur on or before June 30, 2005, with respect to positions within the boundaries of the individual agency as the agencies existed on June 30, 2002, shall afford lay-off rights only to those positions that were within the boundaries of the respective individual agency as the agencies existed on June 30, 2002.

Sec. 2. RCW 27.04.010 and 1999 c 123 s 1 are each amended to read as follows:

(1) There shall be a state library~~((, with a state library commission to serve as the library's governing board))~~ within the office of the secretary of state, and a state librarian to serve as its chief executive officer.

(2) The secretary of state may make such rules under chapter 34.05 RCW as necessary and proper to carry out the purposes of this chapter.

(3) The secretary of state shall appoint a state librarian who shall serve at the pleasure of the secretary of state.

Sec. 3. RCW 27.04.045 and 1999 c 123 s 5 are each amended to read as follows:

The state librarian shall be responsible and accountable for the following functions:

(1) ((Advising the commission and implementing policies, directions, and delegated authority set by the commission)) Establishing content-related standards for common formats and agency indexes for state agency-produced information. In developing these standards, the state librarian is encouraged to seek involvement of, and comments from, public and private entities with an interest in such standards;

(2) Managing and administering the state library;

(3) Exerting leadership in information access and the development of library services;

(4) Acquiring library materials, equipment, and supplies by purchase, exchange, gift, or otherwise; and, as appropriate, assisting the legislature, other state agencies, and other libraries in the cost-effective purchase of information resources;

(5) Employing and terminating personnel in accordance with chapter 41.06 RCW as may be necessary to implement the purposes of this chapter;

(6) Entering into agreements with other public or private entities as a means of implementing the mission, goals, and objectives of the state library and the

entity with which it enters such agreements. In agreements for services between the library and other state agencies, the library may negotiate an exchange of services in lieu of monetary reimbursement for the library's indirect or overhead costs, when such an arrangement facilitates the delivery of library services;

(7) Maintaining a library at the state capitol grounds to effectively provide library and information services to members of the legislature, state officials, and state employees in connection with their official duties;

(8) Serving as the depository for newspapers published in the state of Washington thus providing a central location for a valuable historical record for scholarly, personal, and commercial reference and circulation;

(9) Promoting and facilitating electronic access to public information and services, including providing, or providing for, a service that identifies, describes, and provides location information for government information through electronic means, and that assists government agencies in making their information more readily available to the public;

(10) Collecting and distributing copies of state publications, as defined in RCW 40.06.010, prepared by any state agency for distribution. The state library shall maintain the state publications distribution center, as provided in chapter 40.06 RCW. The office of the secretary of state ((~~library commission~~)), on recommendation of the state librarian, may provide by rule for deposit with the state library of up to three copies of each publication;

(11) Providing for the sale of library material in accordance with RCW 27.12.305;

(12) Providing advisory services to state agencies regarding their information needs;

(13) Providing for library and information service to residents and staff of state-supported residential institutions;

(14) Providing for library and information services to persons throughout the state who are blind and/or physically handicapped;

(15) Assisting individuals and groups such as libraries, library boards, governing bodies, and citizens throughout the state toward the establishment and development of library services;

(16) Making studies and surveys of library needs in order to provide, expand, enlarge, and otherwise improve access to library facilities and services throughout the state; ~~((and))~~

(17) Serving as an interlibrary loan, information, reference, and referral resource for all libraries in the state. The state library may charge lending fees to other libraries ~~((who [that]))~~ that charge the state library for similar services. Money paid as fees shall be retained by the state library as a recovery of costs; and

(18) Accepting and expending in accordance with the terms thereof grants of federal, state, local, or private funds. For the purpose of qualifying to receive such grants, the state librarian is authorized to make applications and reports required by the grantor.

Sec. 4. RCW 27.04.055 and 1999 c 123 s 4 are each amended to read as follows:

No library serving a community having over four thousand population, nor any library operated by the state or under its authority, may have in its employ, in the position of librarian or in any other full-time professional library position, a person who does not hold a librarian's certificate issued by the ~~((commission))~~ state librarian or its predecessor. A full-time professional library position, is one that requires, in the opinion of the ~~((commission))~~ state librarian, a knowledge of information resources and library/information service delivery equivalent to that required for graduation from an accredited library education program. This section does not apply to the state law library or to county law libraries. The state ~~((library commission))~~ librarian shall:

(1) Establish rules for, and prescribe and hold examinations to test, the qualifications of those seeking certificates as librarians;

(2) Grant librarians' certificates without examination to applicants who are graduates of library schools programs accredited or otherwise officially recognized by the American library association for general library training, and grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a graduate of a library school program accredited or otherwise officially recognized by the American library association; and

(3) Charge a fee to recover the costs associated with the application to be paid by each applicant for a librarian's certificate. Money paid as fees shall be retained by the state library as a recovery of costs.

Sec. 5. RCW 40.06.020 and 1977 ex.s. c 232 s 9 are each amended to read as follows:

There is hereby created as a division of the state library, and under the direction of the state librarian, a state publications distribution center. The center shall utilize the depository library system to permit citizens economical and convenient access to state publications. To this end the secretary of state ~~((library commission))~~ shall make such rules ~~((and regulations))~~ as may be deemed necessary to carry out the provisions of this chapter.

Sec. 6. RCW 40.06.040 and 1981 c 260 s 8 are each amended to read as follows:

To provide economical public access to state publications, the center may enter into depository contracts with any free public library, The Evergreen State College, regional university, or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a depository library shall be established by the secretary of state ~~((library commission))~~ upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel,

and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate.

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

(1) RCW 27.04.020 (Library commission) and 1999 c 123 s 2, 1984 c 287 s 58, 1975-76 2nd ex.s. c 34 s 66, 1967 c 198 s 1, 1963 c 202 s 1, 1961 c 45 s 1, & 1941 c 5 s 1; and

(2) RCW 27.04.030 (Duties of commission) and 1999 c 123 s 3, 1987 c 330 s 401, 1986 c 79 s 1, 1984 c 152 s 1, 1943 c 207 s 2, & 1941 c 5 s 2.

NEW SECTION. **Sec. 8.** This act takes effect July 1, 2002.

Passed the House March 13, 2002.

Passed the Senate March 14, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 343

[Second Substitute Senate Bill 5965]

REAL ESTATE EXCISE TAXES—AFFORDABLE HOUSING

AN ACT Relating to local option real estate excise taxes for affordable housing purposes; and adding a new section to chapter 82.46 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 82.46 RCW to read as follows:

(1) Subject to subsections (4) and (5) of this section, the legislative authority of any county may impose an additional excise tax on the purchase and sale of real property in the county at the rate of one-half of one percent of the selling price. The proceeds of the tax shall be used exclusively for the development of affordable housing including acquisition, building, rehabilitation, and maintenance and operation of housing for very low, low, and moderate income persons and those with special needs.

(2) Revenues generated from the tax imposed under this section shall be placed in an affordable housing account administered by the county. Disbursements from the account shall be made following a competitive grant and loan process. The county legislative authority shall determine a mechanism for receiving grant and loan applications, and criteria by which the applications shall be approved and funded. Eligible recipients of grants and loans from the account shall be private nonprofit, affordable housing providers, the housing authority for the county, or other housing programs conducted or funded by a public agency, or by a public agency in partnership with a private nonprofit entity.

(3) The taxes imposed under this section shall be imposed in the same manner and on the same occurrences, and are subject to the same conditions, as the taxes under chapter 82.45 RCW, except that the tax shall be the obligation of both the purchaser and the seller, as determined by the county legislative authority, with at least one-half of the obligation being that of the purchaser. The county may enforce the obligation through an action of debt against the purchaser or seller or may foreclose the lien on the property in the same manner prescribed for the foreclosure of mortgages. The imposition of the tax is effective thirty days after the election at which the tax is authorized.

(4)(a) No tax may be imposed under this section unless approved by a majority of the voters of the county voting, for a specified period and for a specified maximum rate. This vote must follow either:

(i) The adoption of a resolution by the county legislative authority proposing this action; or

(ii) The filing of a petition proposing this action with the county auditor, signed by county voters at least equal in number to ten percent of the total number of voters in the county who voted in the preceding general election.

(b) The ballot proposition shall be submitted to the voters of the county at the next general election occurring at least sixty days after a petition is filed, or at any special election prior to this general election called for this purpose by the county legislative authority.

(5) No tax may be imposed under this section unless the county imposes a tax under RCW 82.46.070 at the maximum rate and the tax was imposed by January 1, 2003.

(6) A plan for the expenditure of the proceeds of the tax imposed by this section shall be prepared by the county legislative authority at least sixty days before the election if the proposal is initiated by resolution of the county legislative authority, or within six months after the tax has been authorized by the voters if the proposal is initiated by petition. Prior to the adoption of this plan, the elected officials of cities located within the county shall be consulted and at least one public hearing shall be held to obtain public comment. The proceeds of the tax shall be expended in conformance with this plan.

Passed the Senate February 15, 2002.

Passed the House March 14, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 344

[Substitute Senate Bill 6234]

AUTOMOBILE INSURANCE—PAYMENT DUE DATE

AN ACT Relating to requiring a date certain for the payment of insurance premiums; and amending RCW 48.18.140.

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

Sec. 1. RCW 48.18.140 and 1989 c 25 s 2 are each amended to read as follows:

(1) The written instrument, in which a contract of insurance is set forth, is the policy.

(2) A policy shall specify:

(a) The names of the parties to the contract. The insurer's name shall be clearly shown in the policy.

(b) The subject of the insurance.

(c) The risk insured against.

(d) The time at which the insurance thereunder takes effect and the period during which the insurance is to continue.

(e) A statement of the premium, and if other than life, disability, or title insurance, the premium rate where applicable.

(f) The conditions pertaining to the insurance.

(3) If under the contract the exact amount of premiums is determinable only at termination of the contract, a statement of the basis and rates upon which the final premium is to be determined and paid shall be specified in the policy.

(4)(a) Periodic payment plans for private passenger automobile insurance shall allow a specific day of the month for a due date for payment of premiums. A late charge may not be required if payment is received within five days of the date payment is due.

(b) The commissioner shall adopt rules to implement this subsection and shall take no disciplinary action against an insurer until ninety days after the effective date of the rule.

(5) This section shall not apply to surety insurance contracts.

Passed the Senate March 11, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 345

[Substitute Senate Bill 6267]

PRINCIPAL AND INCOME ACT

AN ACT Relating to the principal and income act; adding new sections to chapter 11.104 RCW; repealing RCW 11.104.010, 11.104.020, 11.104.030, 11.104.040, 11.104.050, 11.104.060, 11.104.070, 11.104.071, 11.104.080, 11.104.090, 11.104.100, 11.104.110, 11.104.120, 11.104.130, 11.104.900, 11.104.901, 11.104.910, 11.104.920, 11.104.930, and 11.104.940; and providing an effective date.

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

ARTICLE 1
DEFINITIONS; FIDUCIARY DUTIES AND POWERS; REMEDIES

NEW SECTION. **Sec. 101.** **SHORT TITLE.** This act may be cited as the Washington principal and income act of 2002.

NEW SECTION. **Sec. 102.** **DEFINITIONS.** In this act:

(1) "Accounting period" means a calendar year unless another twelve-month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve-month period that begins when an income interest begins or ends when an income interest ends.

(2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary.

(3) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, special administrator, and a person performing substantially the same function.

(4) "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Article 4 of this act.

(5) "Income beneficiary" means a person to whom net income of a trust is or may be payable.

(6) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion.

(7) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute.

(8) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under this act to or from income during the period.

(9) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.

(10) "Principal" means property held in trust for distribution to a remainder beneficiary.

(11) "Remainder beneficiary" means a person entitled to receive principal, including when an income interest ends.

(12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding. The "terms of a trust" shall include without limitation such modifications as may be made from time to time with respect to the trust under chapter 11.96A RCW or otherwise under Washington or applicable federal laws.

(13) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

NEW SECTION. Sec. 103. FIDUCIARY DUTIES; GENERAL PRINCIPLES. (a) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of this act, a fiduciary:

(1) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in this act;

(2) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by this act;

(3) Shall administer a trust or estate in accordance with this act if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(4) Shall add a receipt or charge a disbursement to principal to the extent that the terms of the trust and this act do not provide a rule for allocating the receipt or disbursement to or between principal and income.

(b) In exercising the power to adjust under section 104 (a) or (e) of this act or another discretionary power of administration regarding a matter within the scope of this act, whether granted by the terms of a trust, a will, or this act, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with this act is presumed to be fair and reasonable to all of the beneficiaries.

NEW SECTION. Sec. 104. FIDUCIARY'S POWER TO ADJUST. (a) A trustee may adjust between principal and income to the extent the trustee considers necessary if the trustee invests and manages trust assets as a prudent investor, the terms of the trust describe the amount that may or must be distributed to a beneficiary by referring to the trust's income, and the trustee determines, after applying the rules in section 103(a) of this act, that the trustee is unable to comply with section 103(b) of this act.

(b) In deciding whether and to what extent to exercise the power conferred by subsection (a) of this section, a trustee shall consider all factors relevant to the trust and its beneficiaries, including the following factors to the extent they are relevant:

(1) The nature, purpose, and expected duration of the trust;

(2) The intent of the settlor;

(3) The identity and circumstances of the beneficiaries;

(4) The needs for liquidity, regularity of income, and preservation and appreciation of capital;

(5) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal

property, or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor;

(6) The net amount allocated to income under the other sections of this act and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available;

(7) Whether and to what extent the terms of the trust give the trustee the power to invade principal or accumulate income or prohibit the trustee from invading principal or accumulating income, and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income;

(8) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation; and

(9) The anticipated tax consequences of an adjustment.

(c) A trustee may not make an adjustment:

(1) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the trustee did not have the power to make the adjustment;

(2) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(3) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(4) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(5) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust for income tax purposes, and the individual would not be treated as the owner if the trustee did not possess the power to make an adjustment;

(6) If possessing or exercising the power to make an adjustment causes all or part of the trust assets to be included for estate tax purposes in the estate of an individual who has the power to remove a trustee or appoint a trustee, or both, and the assets would not be included in the estate of the individual if the trustee did not possess the power to make an adjustment;

(7) If the trustee is a beneficiary of the trust; or

(8) If the trustee is not a beneficiary, but the adjustment would benefit the trustee directly or indirectly.

(d) If subsection (c)(5), (6), (7), or (8) of this section applies to a trustee and there is more than one trustee or an additional trustee who is appointed by a court order, a binding agreement, or otherwise under chapter 11.96A RCW, a cotrustee to whom the provision does not apply may make the adjustment unless the exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust.

(e) A personal representative serving with nonintervention powers under chapter 11.68 RCW may adjust between principal and income to the extent the personal representative considers necessary, if the personal representative invests and manages assets of the estate as a prudent investor and the personal representative determines, after applying the rules of section 103(a) of this act, that the personal representative is unable to comply with section 103(b) of this act. In deciding whether and to what extent to exercise the power conferred by this subsection, the personal representative shall consider all factors relevant to the estate and its beneficiaries, including factors comparable to those a trustee would consider under subsection (b) of this section if considering such an adjustment. A personal representative may not make an adjustment under circumstances comparable to those that are described in subsection (c) of this section and that prohibit a trustee from making such an adjustment, although a copersonal representative, or an additional personal representative who is appointed by a court order, a binding agreement, or otherwise under chapter 11.96A RCW, to whom such limitations do not apply may make the adjustment unless the exercise of the power by the remaining personal representative or personal representatives is not permitted by the terms of a will.

(f) A fiduciary may release the entire power conferred by subsection (a) of this section or may release only the power to adjust from income to principal or the power to adjust from principal to income if the fiduciary is uncertain about whether possessing or exercising the power will cause a result described in subsection (c)(1) through (6) or (8) of this section or if the fiduciary determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (c) of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual.

(g) Terms of a trust that limit the power of a fiduciary to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust that the terms are intended to deny the fiduciary the power of adjustment conferred by subsection (a) of this section.

(h) Unless a beneficiary has requested the fiduciary in writing that the fiduciary consider an adjustment, nothing in this section imposes a duty on the fiduciary to make an adjustment and the fiduciary is not liable for not considering whether to make an adjustment under this section.

NEW SECTION. Sec. 105. JUDICIAL CONTROL OF DISCRETIONARY POWERS. (a) A court shall not change a fiduciary's decision to exercise or not to exercise a discretionary power conferred by this act unless it determines that the decision was an abuse of the fiduciary's discretion. A court shall not determine that a fiduciary abused its discretion merely because the court would have exercised the discretion in a different manner or would not have exercised the discretion.

(b) The decisions to which subsection (a) of this section apply include:

(1) A determination under section 104 (a) or (e) of this act of whether and to what extent an amount should be transferred from principal to income or from income to principal.

(2) A determination of: (i) The factors that are relevant to the trust or estate and its beneficiaries; (ii) the extent to which they are relevant; and (iii) the weight, if any, to be given to the relevant factors, in deciding whether and to what extent to exercise the power conferred by section 104 (a) or (e) of this act.

(3) A determination under section 106(g) of this act.

(c) If a court determines that a fiduciary has abused its discretion, the remedy is to restore the income and remainder beneficiaries to the positions they would have occupied if the fiduciary had not abused its discretion, according to the following principles:

(1) To the extent that the abuse of discretion has resulted in no distribution to a beneficiary or a distribution that is too small, the court may require the fiduciary to distribute from the trust to the beneficiary an amount that the court determines will restore the beneficiary, in whole or in part, to his or her appropriate position.

(2) To the extent that the abuse of discretion has resulted in a distribution to a beneficiary that is too large, the court may restore the beneficiaries, the trust, or both, in whole or in part, to their appropriate positions by requiring the fiduciary to withhold an amount from one or more future distributions to the beneficiary who received the distribution that was too large or requiring that beneficiary to return some or all of the distribution to the trust.

(3) To the extent that the court does not restore under (1) and (2) of this subsection the beneficiaries, the trust, or both, to the positions they would have occupied if the fiduciary had not abused its discretion, the court may require the fiduciary to pay an appropriate amount from its own funds to one or more of the beneficiaries or the trust, or both. The fiduciary has no liability under this section unless the beneficiary alleging the abuse of discretion establishes that the fiduciary did not exercise its discretion in good faith and with honest judgment.

(d) Upon a petition by the fiduciary, the court having jurisdiction over the trust or estate shall determine whether a proposed exercise or nonexercise by the fiduciary of a discretionary power conferred by the act will result in an abuse of the fiduciary's discretion. If the petition describes the proposed exercise or nonexercise of the power and contains sufficient information to inform the beneficiaries of the reasons for the proposal, the facts upon which the fiduciary relies, and an explanation of how the income and remainder beneficiaries will be affected by the proposed exercise or nonexercise of the power, a beneficiary who challenges the proposed exercise or nonexercise has the burden of establishing that it will result in an abuse of discretion.

(e) The fiduciary shall be reimbursed for any and all costs, including without limitation all attorneys' fees and costs of defense, and all liabilities that the fiduciary may incur in connection with any claim or action relating in any way to the fiduciary's exercise of its discretion under this act, except to the extent that the

beneficiary establishes that the fiduciary did not exercise its discretion in good faith and with honest judgment. All attorneys' fees and costs shall be advanced to the fiduciary as incurred and shall only be collected from the fiduciary after it has been determined that the fiduciary did not exercise its discretion in good faith and with honest judgment.

NEW SECTION. Sec. 106. POWER TO CONVERT TO UNITRUST. (a) In this section, "beneficiary" means a person who has an interest in the trust to be converted and who has the legal capacity to act in his, her, or its own right with respect to all actions that such person may take under this section.

(b) Unless expressly prohibited by the terms of the trust, a trustee may release the power to make adjustments under section 104 of this act and convert a trust into a unitrust as described in this section if all of the following apply:

(1) The trustee determines that the conversion will enable the trustee better to carry out the intent of the settlor or testator and the purposes of the trust.

(2) The trustee gives written notice of the trustee's intention to release the power to adjust and to convert the trust into a unitrust and of how the unitrust will operate, including what initial decisions the trustee will make under this section, to all beneficiaries:

(i) Who are currently eligible to receive income from the trust; or

(ii) Who would receive, if no powers of appointment were exercised, a distribution of principal if the trust were to terminate immediately before the notice is given.

(3) There is at least one beneficiary under (2)(i) of this subsection and at least one other person who is a beneficiary under (2)(ii) of this subsection.

(4) No beneficiary objects to the conversion to a unitrust in a writing delivered to the trustee within sixty days after the notice is given under (2) of this subsection.

(c) The parties, as defined by RCW 11.96A.030(4), may agree to convert a trust to or from a unitrust by means of a binding agreement under chapter 11.96A RCW.

(d)(1) The trustee may petition the court under chapter 11.96A RCW to order a conversion to a unitrust if either of the following apply:

(i) A party, as defined by RCW 11.96A.030(4), timely objects to the conversion to a unitrust; or

(ii) There are no beneficiaries under (2)(i) and (ii) of this subsection.

(2) A party, as defined by RCW 11.96A.030(4), may request a trustee to convert to a unitrust. If the trustee does not convert, the party, as defined by RCW 11.96A.030(4), may petition the court to order the conversion.

(3) The court shall approve the conversion or direct the requested conversion if the court concludes that the conversion will enable the trustee to better carry out the intent of the settlor or testator and the purposes of the trust.

(e) In deciding whether to exercise a power to convert to a unitrust under this section, a trustee may consider, among other things, the factors set forth in section 104(b) of this act.

(f) After a trust is converted to a unitrust, all of the following apply:

(1) The trustee shall follow an investment policy seeking a total return for the investments held by the trust, whether the return is to be derived:

- (i) From appreciation of principal;
- (ii) From earnings and distributions from principal; or
- (iii) From both.

(2) The trustee shall make regular distributions in accordance with the terms of the trust, or the terms of the will, as the case may be, construed in accordance with the provisions of this section.

(3) The term "income" in the terms of a trust or a will means an annual distribution, the "unitrust distribution", equal to four percent, the "payout percentage", of the net fair market value of the trust's assets, whether such assets would be considered income or principal under other provisions of this act, averaged over the lesser of:

- (i) The three preceding years; or
- (ii) The period during which the trust has been in existence.

(g) The trustee may in the trustee's discretion from time to time determine all of the following:

- (1) The effective date of a conversion to a unitrust.
- (2) The provisions for prorating a unitrust distribution for a short year in which a beneficiary's right to payments commences or ceases.
- (3) The frequency of unitrust distributions during the year.
- (4) The effect of other payments from or contributions to the trust on the trust's valuation.
- (5) Whether to value the trust's assets annually or more frequently.
- (6) What valuation dates to use.
- (7) How frequently to value nonliquid assets and whether to estimate their value.

(8) Whether to omit from the calculations trust property occupied or possessed by a beneficiary.

(9) Any other matters necessary for the proper functioning of the unitrust.

(h)(1) Expenses which would be deducted from income if the trust were not a unitrust may not be deducted from the unitrust distribution.

(2) Unless otherwise provided by the terms of the trust, the unitrust distribution shall be paid from net income, as such term would be determined if the trust were not a unitrust. To the extent net income is insufficient, the unitrust distribution shall be paid from net realized short-term capital gains. To the extent net income and net realized short-term capital gains are insufficient, the unitrust distribution shall be paid from net realized long-term capital gains. To the extent net income and net realized short-term and long-term capital gains are insufficient, the unitrust distribution shall be paid from the principal of the trust.

(i) The trustee or, if the trustee declines to do so, a beneficiary may petition the court:

(1) To select a payout percentage different than four percent.

(2) To provide for a distribution of net income, as would be determined if the trust were not a unitrust, in excess of the unitrust distribution if such distribution is necessary to preserve a tax benefit.

(3) To average the valuation of the trust's net assets over a period other than three years.

(4) To reconvert from a unitrust.

(j) Upon a reconversion, the power to adjust under section 104 of this act is revived.

(k) A conversion to a unitrust does not affect a provision in the terms of a trust directing or authorizing the trustee to distribute principal or authorizing a beneficiary to withdraw a portion or all of the principal.

(l) A trustee may not possess or exercise any power under this section in any of the following circumstances:

(1) The unitrust distribution would be made from any amount that is permanently set aside for charitable purposes under the terms of a trust and for which a charitable deduction from a federal gift or estate tax has been taken.

(2) The possession or exercise of the power would cause an individual to be treated as the owner of all or part of the trust for federal income tax purposes and the individual would not be treated as the owner if the trustee did not possess or exercise the power.

(3) The possession or exercise of the power would cause all or any part of the trust estate to be subject to any federal gift or estate tax with respect to the individual and the trust estate would not be subject to such taxation if the trustee did not possess or exercise the power.

(4) The possession or exercise of the power would result in the disallowance of a federal gift or estate tax marital deduction which would be allowed if the trustee did not have the power.

(5) The trustee is a beneficiary of the trust.

(m) If subsection (l)(2), (3), or (5) of this section applies to a trustee and there is more than one trustee or an additional trustee who is appointed by a court order, a binding agreement, or otherwise under chapter 11.96A RCW, a cotrustee to whom subsection (l)(2), (3), or (5) of this section does not apply may possess and exercise the power unless the possession or exercise of the power by the remaining trustee or trustees is not permitted by the terms of the trust. If subsection (l)(2), (3), or (5) of this section restricts all trustees from possessing or exercising a power under this section, the trustee may petition a court under chapter 11.96A RCW for the court to effect the intended conversion or action.

(n) A trustee may release any power conferred by this section if any of the following applies:

(1) The trustee is uncertain about whether possessing or exercising the power will cause a result described in subsection (l)(2), (3), or (4) of this section.

(2) The trustee determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (1) of this section.

The release may be permanent or for a specified period, including a period measured by the life of an individual.

ARTICLE 2

DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

NEW SECTION. Sec. 201. DETERMINATION AND DISTRIBUTION OF NET INCOME. After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply:

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3 through 5 of this act which apply to trustees and the rules in subsection (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3 through 5 of this act which apply to trustees, except to the extent that the following apply:

(i) The fiduciary shall include in net income all income from property used to discharge liabilities;

(ii) The fiduciary shall pay from income or principal, in the fiduciary's discretion, family allowances; fees of attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(iii) The fiduciary shall pay from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of a trust, or applicable law from net income determined under subsection (2) of this section or from principal to the extent that net income is insufficient. Otherwise, no outright gift of a pecuniary amount whether under a will, or under a trust after an income interest ends shall receive interest or any other income.

(4) A fiduciary shall distribute the net income remaining after distributions required by subsection (3) of this section in the manner described in section 202 of this act to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to

withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary may not reduce principal or income receipts from property described in subsection (1) of this section because of a payment described in section 501 or 502 of this act to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

NEW SECTION. Sec. 202. DISTRIBUTION TO RESIDUARY AND REMAINDER BENEFICIARIES. (a) Each beneficiary described in section 201(4) of this act is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one who does not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(b) In determining a beneficiary's share of net income, the following rules apply:

(1) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

(2) The beneficiary's fractional interest in the undistributed principal assets must be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

(3) The beneficiary's fractional interest in the undistributed principal assets must be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by any unpaid principal obligation.

(4) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(c) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(d) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

ARTICLE 3
APPORTIONMENT AT BEGINNING AND END
OF INCOME INTEREST

NEW SECTION. Sec. 301. WHEN RIGHT TO INCOME BEGINS AND ENDS. (a) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a trust or successive income interest.

(b) An asset becomes subject to a trust:

(1) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(2) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(3) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(c) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subsection (d) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(d) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

NEW SECTION. Sec. 302. APPORTIONMENT OF RECEIPTS AND DISBURSEMENTS WHEN DECEDENT DIES OR INCOME INTEREST BEGINS. (a) A trustee shall allocate an income receipt or disbursement other than one to which section 201(1) of this act applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(b) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement must be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins must be allocated to principal and the balance must be allocated to income.

(c) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the

purposes of this act. Distributions to shareholders or other owners from an entity to which section 401 of this act applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that must be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

NEW SECTION. Sec. 303. APPORTIONMENT WHEN INCOME INTEREST ENDS. (a) In this section, "undistributed income" means net income received before the date on which an income interest ends. The term does not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(b) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent of the trust principal immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked must be added to principal.

(c) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements.

ARTICLE 4

ALLOCATION OF RECEIPTS DURING ADMINISTRATION OF TRUST

PART I: RECEIPTS FROM ENTITIES

NEW SECTION. Sec. 401. CHARACTER OF RECEIPTS. (a) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest. "Entity" does not mean a trust or estate to which section 402 of this act applies, a business or activity to which section 403 of this act applies, or an asset-backed security to which section 415 of this act applies.

(b) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(c) A trustee shall allocate the following receipts from an entity to principal:

- (1) Property other than money;
- (2) Money received in one distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;
- (3) Money received in total or partial liquidation of the entity; and

(4) Money received from an entity that is a regulated investment company or a real estate investment trust if the money distributed is a capital gain dividend for federal income tax purposes.

(d) Money is received in partial liquidation:

(1) To the extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

(2) If the total amount of money and property distributed in a distribution or series of related distributions is greater than twenty percent of the entity's gross assets, as shown by the entity's year-end financial statements immediately preceding the initial distribution.

(e) Money is not received in partial liquidation, nor may it be taken into account under subsection (d)(2) of this section, to the extent that it does not exceed the amount of income tax that a trustee or beneficiary must pay on taxable income of the entity that distributes the money.

(f) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

NEW SECTION. Sec. 402. DISTRIBUTION FROM TRUST OR ESTATE.

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest in a trust that is an investment entity, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, section 401 or 415 of this act applies to a receipt from the trust.

NEW SECTION. Sec. 403. BUSINESS AND OTHER ACTIVITIES CONDUCTED BY TRUSTEE.

(a) If a trustee who conducts a business or other activity determines that it is in the best interest of all the beneficiaries to account separately for the business or activity instead of accounting for it as part of the trust's general accounting records, the trustee may maintain separate accounting records for its transactions, whether or not its assets are segregated from other trust assets. The trustee shall maintain such records in accordance with principles of accounting that are generally accepted.

(b) A trustee who accounts separately for a business or other activity may determine the extent to which its net cash receipts must be retained for working capital, the acquisition or replacement of fixed assets, and other reasonably foreseeable needs of the business or activity, and the extent to which the remaining net cash receipts are accounted for as principal or income in the trust's general accounting records. If a trustee sells assets of the business or other activity, other than in the ordinary course of the business or activity, the trustee shall account for the net amount received as principal in the trust's general accounting records to the

extent the trustee determines that the amount received is no longer required in the conduct of the business.

(c) Activities for which a trustee may maintain separate accounting records include:

- (1) Retail, manufacturing, service, and other traditional business activities;
- (2) Farming;
- (3) Raising and selling livestock and other animals;
- (4) Management of rental properties;
- (5) Extraction of minerals and other natural resources;
- (6) Timber operations; and
- (7) Activities to which section 414 of this act applies.

PART 2: RECEIPTS NOT NORMALLY APPORTIONED

NEW SECTION. Sec. 404. PRINCIPAL RECEIPTS. A trustee shall allocate to principal:

(1) To the extent not allocated to income under this act, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including realized profit, subject to this Article;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in section 502(a)(7) of this act or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or must distribute income; and

(6) Other receipts as provided in Part 3 of this Article.

NEW SECTION. Sec. 405. RENTAL PROPERTY. To the extent that a trustee accounts for receipts from rental property pursuant to this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is to be applied as rent for future periods, must be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

NEW SECTION. Sec. 406. OBLIGATION TO PAY MONEY. (a) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as

consideration for prepaying principal, must be allocated to income without any provision for amortization of premium.

(b) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust must be allocated to income.

(c) This section does not apply to an obligation to which section 409, 410, 411, 412, 414, or 415 of this act applies.

NEW SECTION. Sec. 407. INSURANCE POLICIES AND SIMILAR CONTRACTS. (a) Except as otherwise provided in subsection (b) of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

(b) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or, subject to section 403 of this act, loss of profits from a business.

(c) This section does not apply to a contract to which section 409 of this act applies.

PART 3: RECEIPTS NORMALLY APPORTIONED

NEW SECTION. Sec. 408. INSUBSTANTIAL ALLOCATIONS NOT REQUIRED. If a trustee determines that an allocation between principal and income required by section 409, 410, 411, 412, or 415 of this act is insubstantial, the trustee may allocate the entire amount to principal unless one of the circumstances described in section 104(c) of this act applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in section 104(d) of this act and may be released for the reasons and in the manner described in section 104(f) of this act. An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent; or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent of the total value of the trust's assets at the beginning of the accounting period.

NEW SECTION. Sec. 409. DEFERRED COMPENSATION, ANNUITIES, AND SIMILAR PAYMENTS. (a) In this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one or more individuals because of services rendered or property transferred to the payer

in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(b) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(c) If no part of a payment is characterized as interest, a dividend, or an equivalent payment, a trustee shall allocate to income four percent of the total value of the interests of the trustee in the plan, annuity, or similar payment as of the first business day of the accounting period and the balance to principal.

(d) If, to obtain an estate tax marital deduction for a trust, a trustee must allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(e) This section does not apply to payments to which section 410 of this act applies.

NEW SECTION. Sec. 410. LIQUIDATING ASSET. (a) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one year under an arrangement that does not provide for the payment of interest on the unpaid balance. The term does not include a payment subject to section 409 of this act, resources subject to section 411 of this act, timber subject to section 412 of this act, an activity subject to section 414 of this act, an asset subject to section 415 of this act, or any asset for which the trustee establishes a reserve for depreciation under section 503 of this act.

(b) A trustee shall allocate to income ten percent of the receipts from a liquidating asset and the balance to principal.

NEW SECTION. Sec. 411. MINERALS, WATER, AND OTHER NATURAL RESOURCES. (a) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(1) If received as nominal delay rental or nominal annual rent on a lease, a receipt must be allocated to income;

(2) If received from a production payment, a receipt must be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance must be allocated to principal;

(3) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety percent must be allocated to principal and the balance to income; or

(4) If an amount is received from a working interest or any other interest not provided for in subsection (1), (2), or (3) of this section, ninety percent of the net amount received must be allocated to principal and the balance to income.

(b) An amount received on account of an interest in water that is renewable must be allocated to income. If the water is not renewable, ninety percent of the amount must be allocated to principal and the balance to income.

(c) This act applies whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(d) If a trust owns an interest in minerals, water, or other natural resources on January 1, 2003, the trustee may allocate receipts from the interest as provided in this act or in the manner used by the trustee before January 1, 2003. If the trust acquires an interest in minerals, water, or other natural resources after January 1, 2003, the trustee shall allocate receipts from the interest as provided in this act.

NEW SECTION. **Sec. 412. TIMBER.** (a) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(1) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(2) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(3) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in (1) and (2) of this subsection; or

(4) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to (1), (2), or (3) of this subsection.

(b) In determining net receipts to be allocated pursuant to subsection (a) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(c) This act applies whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(d) If a trust owns an interest in timberland on January 1, 2003, the trustee may allocate net receipts from the sale of timber and related products as provided in this act or in the manner used by the trustee before January 1, 2003. If the trust acquires an interest in timberland after January 1, 2003, the trustee shall allocate net receipts from the sale of timber and related products as provided in this act.

NEW SECTION. Sec. 413. PROPERTY NOT PRODUCTIVE OF INCOME. (a) If a marital deduction is allowed for all or part of a trust whose assets consist substantially of property that does not provide the spouse with sufficient income from or use of the trust assets, and if the amounts that the trustee transfers from principal to income under section 104 of this act and distributes to the spouse from principal pursuant to the terms of the trust are insufficient to provide the spouse with the beneficial enjoyment required to obtain the marital deduction, the spouse may require the trustee to make property productive of income, convert property within a reasonable time, or exercise the power conferred by section 104(a) of this act. The trustee may decide which action or combination of actions to take.

(b) In cases not governed by subsection (a) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

NEW SECTION. Sec. 414. DERIVATIVES AND OPTIONS. (a) In this section, "derivative" means a contract or financial instrument or a combination of contracts and financial instruments which gives a trust the right or obligation to participate in some or all changes in the price of a tangible or intangible asset or group of assets, or changes in a rate, an index of prices or rates, or other market indicator for an asset or a group of assets.

(b) To the extent that a trustee does not account under section 403 of this act for transactions in derivatives, the trustee shall allocate to principal receipts from and disbursements made in connection with those transactions.

(c) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option must be allocated to principal. An amount paid to acquire the option must be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, must be allocated to principal.

NEW SECTION. Sec. 415. ASSET-BACKED SECURITIES. (a) In this section, "asset-backed security" means an asset whose value is based upon the right it gives the owner to receive distributions from the proceeds of financial assets that provide collateral for the security. The term includes an asset that gives the owner the right to receive from the collateral financial assets only the interest or other current return or only the proceeds other than interest or current return. The term does not include an asset to which section 401 or 409 of this act applies.

(b) If a trust receives a payment from interest or other current return and from other proceeds of the collateral financial assets, the trustee shall allocate to income the portion of the payment which the payer identifies as being from interest or other current return and shall allocate the balance of the payment to principal.

(c) If a trust receives one or more payments in exchange for the trust's entire interest in an asset-backed security in one accounting period, the trustee shall allocate the payments to principal. If a payment is one of a series of payments that will result in the liquidation of the trust's interest in the security over more than one accounting period, the trustee shall allocate ten percent of the payment to income and the balance to principal.

ARTICLE 5 ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

NEW SECTION. Sec. 501. DISBURSEMENTS FROM INCOME. A trustee shall make the following disbursements from income to the extent that they are not disbursements to which section 201(2) (ii) or (iii) of this act applies:

(1) One-half of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee;

(2) One-half of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

NEW SECTION. Sec. 502. DISBURSEMENTS FROM PRINCIPAL. (a) A trustee shall make the following disbursements from principal:

(1) The remaining one-half of the disbursements described in section 501 (1) and (2) of this act;

(2) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

(3) Payments on the principal of a trust debt;

(4) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(5) Premiums paid on a policy of insurance not described in section 501(4) of this act of which the trust is the owner and beneficiary;

(6) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

(7) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under

environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(b) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

(c) For disbursements not covered in this section or section 501 of this act, see section 103(a)(4) of this act.

NEW SECTION. Sec. 503. TRANSFERS FROM INCOME TO PRINCIPAL FOR DEPRECIATION. (a) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one year.

(b) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but may not transfer any amount for depreciation:

(1) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(2) Under this section if the trustee is accounting under section 403 of this act for the business or activity in which the asset is used.

(c) An amount transferred to principal need not be held as a separate fund.

NEW SECTION. Sec. 504. TRANSFERS FROM INCOME TO REIMBURSE PRINCIPAL. (a) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(b) Principal disbursements to which subsection (a) of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(1) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(2) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

(3) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

(4) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(5) Disbursements described in section 502(a)(7) of this act.

(c) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may

continue to transfer amounts from income to principal as provided in subsection (a) of this section.

NEW SECTION. Sec. 505. INCOME TAXES. (a) A tax required to be paid by a trustee based on receipts allocated to income must be paid from income.

(b) A tax required to be paid by a trustee based on receipts allocated to principal must be paid from principal, even if the tax is called an income tax by the taxing authority.

(c) A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be paid proportionately:

(1) From income to the extent that receipts from the entity are allocated to income; and

(2) From principal to the extent that:

(i) Receipts from the entity are allocated to principal; and

(ii) The trust's share of the entity's taxable income exceeds the total receipts described in (1) and (2)(i) of this subsection.

(d) For purposes of this section, receipts allocated to principal or income must be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

NEW SECTION. Sec. 506. ADJUSTMENTS BETWEEN PRINCIPAL AND INCOME BECAUSE OF TAXES. (a) A fiduciary may make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(1) Elections and decisions, other than those described in subsection (b) of this section, that the fiduciary makes from time to time regarding tax matters;

(2) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving or a distribution from the estate or trust; or

(3) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

(b) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes, and as a result estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement must equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced must be the same as its proportionate

share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

ARTICLE 6
MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 601.** The following acts or parts of acts are each repealed:

- (1) RCW 11.104.010 (Definitions) and 1997 c 252 s 78 & 1985 c 30 s 84;
 - (2) RCW 11.104.020 (Duty of trustee as to receipts and expenditures) and 1985 c 30 s 85;
 - (3) RCW 11.104.030 (Income—Principal—Charges) and 1985 c 30 s 86;
 - (4) RCW 11.104.040 (When right to income arises—Apportionment of income) and 1985 c 30 s 87;
 - (5) RCW 11.104.050 (Income earned during administration of a decedent's estate) and 1993 c 161 s 1 & 1985 c 30 s 88;
 - (6) RCW 11.104.060 (Corporate distribution) and 1985 c 30 s 89;
 - (7) RCW 11.104.070 (Bond premium and discount) and 1985 c 30 s 90;
 - (8) RCW 11.104.071 (Charitable remainder unitrusts) and 1997 c 252 s 79;
 - (9) RCW 11.104.080 (Trade, business and farming operations) and 1985 c 30 s 91;
 - (10) RCW 11.104.090 (Disposition of receipts from natural resources) and 1985 c 30 s 92;
 - (11) RCW 11.104.100 (Timber) and 1971 c 74 s 10;
 - (12) RCW 11.104.110 (Other property subject to deferred payment right—Inventory value determination) and 1997 c 252 s 80 & 1971 c 74 s 11;
 - (13) RCW 11.104.120 (Underproductive property—Definition) and 1985 c 30 s 93;
 - (14) RCW 11.104.130 (Charges against income and principal) and 1985 c 30 s 94;
 - (15) RCW 11.104.900 (Application of chapter) and 1971 c 74 s 14;
 - (16) RCW 11.104.901 (Application of RCW 11.104.010 through 11.104.130 as of January 1, 1985) and 1985 c 30 s 142;
 - (17) RCW 11.104.910 (Short title) and 1971 c 74 s 15;
 - (18) RCW 11.104.920 (Severability—1971 c 74) and 1971 c 74 s 16;
 - (19) RCW 11.104.930 (Section headings not part of law) and 1971 c 74 s 18;
- and
- (20) RCW 11.104.940 (Effective date—1971 c 74) and 1971 c 74 s 19.

NEW SECTION. **Sec. 602.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact similar laws.

NEW SECTION. **Sec. 603.** APPLICATION OF CHAPTER 11.96A RCW. Nothing in this act is intended to restrict the application of chapter 11.96A RCW

to issues, questions, or disputes that arise under or that relate to this act. Any and all such issues, questions, or disputes shall be resolved judicially or nonjudicially under chapter 11.96A RCW.

NEW SECTION. Sec. 604. SEVERABILITY CLAUSE. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 605. Captions, article headings, and part headings used in this act are not any part of the law.

NEW SECTION. Sec. 606. EFFECTIVE DATE. This act takes effect January 1, 2003.

NEW SECTION. Sec. 607. APPLICATION OF ACT TO EXISTING TRUSTS AND ESTATES. Except as specifically provided otherwise in the terms of a trust or a will, this act shall apply to any receipt or expense received or incurred on or after January 1, 2003, by any trust or decedent's estate, whether established before, on, or after January 1, 2003, and whether the asset involved was acquired by the fiduciary before, on, or after January 1, 2003.

NEW SECTION. Sec. 608. Sections 101 through 506 and 602 through 606 of this act are each added to chapter 11.104 RCW.

Passed the Senate February 13, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 346

[Senate Bill 6338]

CONSUMER LOAN ACT—LICENSEE DISCLOSURES

AN ACT Relating to the consumer loan act; and amending RCW 31.04.102.

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

Sec. 1. RCW 31.04.102 and 2001 c 81 s 9 are each amended to read as follows:

~~((Within three business days following receipt of a loan application, a)) (1)~~
For all loans made by a licensee that are not secured by a lien on real property, the licensee must make disclosures in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, and all other applicable federal laws and regulations.

(2) For all loans made by a licensee that are secured by a lien on real property, the licensee shall provide to each borrower within three business days following receipt of a loan application a written disclosure containing an itemized estimation and explanation of all fees and costs that the borrower is required to pay in

connection with obtaining a loan from the licensee. A good faith estimate of a fee or cost shall be provided if the exact amount of the fee or cost is not available when the disclosure is provided. Disclosure in a form which complies with the requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226, the real estate settlement procedures act and regulation X, 24 C.F.R. Sec. 3500, and all other applicable federal laws and regulations, as now or hereafter amended, shall be deemed to constitute compliance with ~~((the))~~ this disclosure requirement~~((s of this section when it is provided to the borrower within three days of receipt of a loan application))~~. Each licensee shall comply with all other applicable federal and state laws and regulations.

(3) In addition, for all loans made by the licensee that are secured by a lien on real property, the licensee must provide to the borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three days of receipt of a loan application. The annual percentage rate must be calculated in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Sec. 226. If a licensee provides the borrower with a disclosure in compliance with the requirements of the truth in lending act within three business days of receipt of a loan application, then the licensee has complied with this subsection. If the director determines that the federal government has required a disclosure that substantially meets the objectives of this subsection then the director may make a determination by rule that compliance with this federal disclosure requirement constitutes compliance with this subsection.

Passed the Senate February 19, 2002.
Passed the House March 6, 2002.
Approved by the Governor April 3, 2002.
Filed in Office of Secretary of State April 3, 2002.

CHAPTER 347

[Senate Bill 6526]

INSURANCE CONTRACTS—RENEWALS

AN ACT Relating to renewing contracts of insurance that are subject to RCW 48.18.290; and amending RCW 48.18.2901.

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

Sec. 1. RCW 48.18.2901 and 1993 c 186 s 1 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))~~ in that writing 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 and has included (~~(therein)~~) in that writing 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 has procured equivalent coverage 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; or

(e) The contract clearly states that it is not renewable, and is for a specific line, subclassification, or type of coverage that is not offered on a renewable basis. This subsection (1)(e) does not restrict the authority of the insurance commissioner under this code.

(2) 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)~~). However, 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 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)~~). However, (a) 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)~~); and (b) 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.

(5) A midterm blanket reduction in rate, approved by the commissioner, for medical malpractice insurance shall not be considered a renewal for purposes of this section.

Passed the Senate February 13, 2002.
Passed the House March 6, 2002.
Approved by the Governor April 3, 2002.
Filed in Office of Secretary of State April 3, 2002.

CHAPTER 348

[Senate Bill 6557]

HIGHER EDUCATION COORDINATING BOARD—CHAIR

AN ACT Relating to the selection of the chair of the higher education coordinating board; and amending RCW 28B.80.390 and 28B.80.400.

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

Sec. 1. RCW 28B.80.390 and 1985 c 370 s 10 are each amended to read as follows:

The board shall consist of nine members who are representative of the public, including women and the racial minority community. All members shall be appointed at large by the governor and approved by the senate. ~~((The governor shall appoint the chair, who shall serve at the governor's pleasure.))~~ Following the term of the chair serving on the effective date of this section, the board shall select from its membership a chair and a vice-chair who shall each serve a one-year term. The chair and vice-chair gna serve more than one term if selected to do so b the membership.

***Sec. 2.** RCW 28B.80.400 and 1985 c 370 s 11 are each amended to read as follows:

The members of the board(~~(, except the chair,)~~) shall serve for terms of four years, the terms expiring on June 30th of the fourth year of the term (~~(except that in the case of initial members, two shall be appointed to two-year terms, three shall be appointed to three-year terms, and three shall be appointed to four-year terms)~~).

*Sec. 2 was vetoed. See message at end of chapter.

Passed the Senate March 11, 2002.
Passed the House March 6, 2002.
Approved by the Governor April 3, 2002, with the exception of certain items that were vetoed.
Filed in Office of Secretary of State April 3, 2002.

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

"I am returning herewith, without my approval as to section 2, Senate Bill No. 6557 entitled:

"AN ACT Relating to the selection of the chair of the higher education coordinating board;"

Senate Bill No. 6557 changes the structure of the Higher Education Coordinating Board (HECB) to allow the HECB members to select the chair, rather than the governor.

Currently, all members of the HECB serve four-year terms, except the chair, who serves at the pleasure of the governor. Section 2 of the bill would have changed the term of the chair to a four-year term as well. However, it was unclear whether the four-year

term limitation for the chair applied to the current chair. The existing law, which is retained by this veto, does not contain the same caveat as section 1 of the bill regarding the term of the current chair. Accordingly, this veto may create confusion regarding the length of the chair's term. I ask the legislature to pass remedial legislation next year.

I endorse rotation of the chair among the board members in the future, however it is a principle of the Washington State Constitution that the term of an official should not be shortened while the official is in office.

For these reasons, I have vetoed section 2 of Senate Bill No. 6557.

With the exception of section 2, Senate Bill No. 6557 is approved."

CHAPTER 349

[Engrossed Second Substitute Senate Bill 6560]
SHARED GAME LOTTERY

AN ACT Relating to the shared game lottery revenues for education purposes; amending RCW 67.70.010; and adding new sections to chapter 67.70 RCW.

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

Sec. 1. RCW 67.70.010 and 1994 c 218 s 3 are each amended to read as follows:

For the purposes of this chapter:

- (1) "Commission" means the state lottery commission established by this chapter;
- (2) "Director" means the director of the state lottery established by this chapter;
- (3) "Lottery" or "state lottery" means the lottery established and operated pursuant to this chapter;
- (4) "On-line game" means a lottery game in which a player pays a fee to a lottery retailer and selects a combination of digits, numbers, or symbols, type and amount of play, and receives a computer-generated ticket with those selections, and the lottery separately draws or selects the winning combination or combinations;
- (5) "Shared game lottery" means any lottery activity in which the commission participates under written agreement between the commission, on behalf of the state, and any other state or states.

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

(1) Pursuant to RCW 67.70.040(1)(a), the commission may enter into the multistate agreement establishing a shared game lottery known as "The Big Game," that was entered into by party state lotteries in August 1996 and subsequently amended.

(2) The shared game lottery account is created as a separate account outside the state treasury. The account is managed, maintained, and controlled by the commission and consists of all revenues received from the sale of shared game lottery tickets or shares, and all other moneys credited or transferred to it from any other fund or source under law. The account is allotted according to chapter 43.88 RCW.

NEW SECTION. **Sec. 3.** A new section is added to chapter 67.70 RCW to read as follows:

(1) The legislature recognizes that creating a shared game lottery could result in less revenue being raised by the existing state lottery ticket sales. The legislature further recognizes that the two funds most impacted by this potential event are the student achievement fund and the education construction account. Therefore, it is the intent of the legislature to use some of the proceeds from the shared game lottery to make up the difference that the potential state lottery revenue loss would have on the student achievement fund and the education construction account.

(2) The student achievement fund and the education construction account are expected to collectively receive one hundred two million dollars annually from state lottery games other than the shared game lottery. For fiscal year 2003 and thereafter, if the amount of lottery revenues earmarked for the student achievement fund and the education construction account are less than one hundred two million dollars, the commission must transfer sufficient moneys from revenues derived from the shared game lottery into the student achievement fund and the education construction account to bring the total revenue up to one hundred two million dollars. The funds transferred from the shared game lottery account under this subsection must be divided between the student achievement fund and the education construction account in a manner consistent with RCW 67.70.240(3).

(3) For fiscal year 2003, the commission shall transfer from revenues derived from the shared game lottery to the violence reduction and drug enforcement account under RCW 69.50.520 five hundred thousand dollars exclusively for the treatment of pathological gambling as prescribed by section 4 of this act.

(4) The remaining net revenues, if any, in the shared game lottery account after the transfers shall be deposited into the general fund.

NEW SECTION. **Sec. 4.** A new section is added to chapter 67.70 RCW to read as follows:

(1) A program for the treatment of pathological gambling is established within the department of social and health services, to be administered by a qualified person who has training and experience in handling pathological gambling problems or the organization and administration of treatment services for persons suffering from pathological gambling problems. The department shall track program participation and client outcomes.

(2) To receive treatment under subsection (1) of this section, a person must:

(a) Need treatment for pathological gambling, but be unable to afford treatment; and

(b) Be targeted by the department of social and health services as to be most amenable to treatment.

(3) Treatment under this section is limited to the funds available to the department of social and health services.

(4) The department of social and health services shall report to the legislature by September 1, 2002, with a plan for implementing this section.

(5) The department of social and health services shall report to the legislature by November 1, 2003, on program participation and client outcomes.

Passed the Senate March 7, 2002.
Passed the House March 14, 2002.
Approved by the Governor April 3, 2002.
Filed in Office of Secretary of State April 3, 2002.

CHAPTER 350

[Engrossed Substitute Senate Bill 6641]
SCHOOLS—DIABETIC STUDENTS

AN ACT Relating to accommodating children with diabetes in schools; adding new sections to chapter 28A.210 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28A.210 RCW to read as follows:

The legislature finds that diabetes imposes significant health risks to students enrolled in the state's public schools and that providing for the medical needs of students with diabetes is crucial to ensure both the safety of students with diabetes and their ability to obtain the education guaranteed to all citizens of the state. The legislature also finds that children with diabetes can and should be provided with a safe learning environment and access to all other nonacademic school sponsored activities. The legislature further finds that an individual health plan for each child with diabetes should be in place in the student's school and should include provisions for a parental signed release form, medical equipment and storage capacity, and exceptions from school policies, school schedule, meals and eating, disaster preparedness, inservice training for staff, legal documents for parent-designated adults who may provide care, as needed, and personnel guidelines describing who may assume responsibility for activities contained in the student's individual health plan.

NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.210 RCW to read as follows:

(1) School districts shall provide individual health plans for students with diabetes, subject to the following conditions:

(a) The board of directors of the school district shall adopt policies to be followed for students with diabetes. The policies shall include, but need not be limited to:

(i) The acquisition of parent requests and instructions;

(ii) The acquisition of orders from licensed health professionals prescribing within the scope of their prescriptive authority for monitoring and treatment at school;

(iii) The provision for storage of medical equipment and medication provided by the parent;

(iv) The provision for students to perform blood glucose tests, administer insulin, treat hypoglycemia and hyperglycemia, and have easy access to necessary

supplies and equipment to perform monitoring and treatment functions as specified in the individual health plan. The policies shall include the option for students to carry on their persons the necessary supplies and equipment and the option to perform monitoring and treatment functions anywhere on school grounds including the students' classrooms, and at school-sponsored events;

(v) The establishment of school policy exceptions necessary to accommodate the students' needs to eat whenever and wherever necessary, have easy, unrestricted access to water and bathroom use, have provisions made for parties at school when food is served, eat meals and snacks on time, and other necessary exceptions as described in the individual health plan;

(vi) The assurance that school meals are never withheld because of nonpayment of fees or disciplinary action;

(vii) A description of the students' school day schedules for timing of meals, snacks, blood sugar testing, insulin injections, and related activities;

(viii) The development of individual emergency plans;

(ix) The distribution of the individual health plan to appropriate staff based on the students' needs and staff level of contact with the students;

(x) The possession of legal documents for parent-designated adults to provide care, if needed; and

(xi) The updating of the individual health plan at least annually or more frequently, as needed; and

(b) The board of directors, in the course of developing the policies in (a) of this subsection, shall seek advice from one or more licensed physicians or nurses or diabetes educators who are nationally certified.

(2)(a) For the purposes of this section, "parent-designated adult" means a volunteer, who may be a school district employee, who receives additional training from a health care professional or expert in diabetic care selected by the parents, and who provides care for the child consistent with the individual health plan.

(b) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW shall file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee shall not be subject to any employer reprisal or disciplinary action for refusing to file a letter.

(3) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with diabetes to ensure a safe, therapeutic learning environment. Training may also be provided by a diabetes educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection.

Parent-designated adults who are not school employees shall show evidence of comparable training. The parent-designated adult must also receive additional training as established in subsection (2)(a) of this section for the additional care the parents have authorized the parent-designated adult to provide. The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents.

NEW SECTION. Sec. 3. The superintendent of public instruction and the secretary of the department of health shall develop a uniform policy for all school districts providing for the inservice training for school staff on symptoms, treatment, and monitoring of students with diabetes and on the additional observations that may be needed in different situations that may arise during the school day and during school sponsored events. The policy shall include the standards and skills that must be in place for inservice training of school staff.

NEW SECTION. Sec. 4. A new section is added to chapter 28A.210 RCW to read as follows:

A school district, school district employee, agent, or parent-designated adult who, acting in good faith and in substantial compliance with the student's individual health plan and the instructions of the student's licensed health care professional, provides assistance or services under section 1 or 2 of this act shall not be liable in any criminal action or for civil damages in his or her individual or marital or governmental or corporate or other capacities as a result of the services provided under section 1 or 2 of this act to students with diabetes.

NEW SECTION. Sec. 5. This act takes effect July 1, 2002.

Passed the Senate March 13, 2002.

Passed the House March 12, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 351

[Senate Bill 6763]

TASK FORCE ON FUNDING FOR COMMUNITY-BASED SERVICES TO VICTIMS OF CRIME

AN ACT Relating to a task force on funding for community-based services to victims of crime; adding a new section to chapter 43.31 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 43.31 RCW to read as follows:

(1) There is created the Washington state task force on funding for community-based services to victims of crime.

(2) The task force shall consist of the following members:

(a) The director of the office of community development, or the director's designee;

(b) The secretary of the department of social and health services, or the secretary's designee;

(c) The director of the department of labor and industries, or the director's designee;

(d) At least eleven, but not more than fifteen, additional members, selected by the director of the office of community development, including: At least one representative each of community-based organizations that focus on providing services to homicide survivors, assault victims (other than sexual assault and domestic violence), robbery victims, child abuse victims, and victims of drunk and drugged drivers (vehicular assault and vehicular homicide); one representative of organizations that provide services primarily to domestic violence victims; one representative of organizations providing services primarily to sexual assault victims; one representative of programs that provide services to victims who are deaf, blind, or otherwise disabled; one representative of organizations that provide services solely for victims to whom English is a second language; one representative of victim service programs administered by law enforcement agencies; and one representative of victim/witness assistance programs administered by county prosecuting attorneys;

(e) Four legislators, two from the senate to be chosen by the president of the senate and two from the house of representatives to be chosen by the speaker of the house of representatives. Not more than one member from each chamber may be a member of the largest political party caucus.

(3) The task force shall be chaired by the director of the office of community development, or the director's designee.

(4) The task force shall carry out the following activities:

(a) Measure and evaluate the progress of the state in providing funding to community-based programs that provide services to victims of crime, especially the underserved victim populations identified as: Homicide survivors, physical assault victims (nondomestic violence and nonsexual assault related), robbery victims, child abuse victims, vehicular assault and homicide victims and survivors, and victims of property crimes;

(b) Identify available federal, state, and local programs that provide services to underserved victims as defined in (a) of this subsection;

(c) Identify federal and private funds, including funds from foundations and other nonprofit organizations, that may be available for community-based programs that provide services to crime victims;

(d) Make recommendations on methods to provide a cost-effective coordinated system of support and assistance to persons who are victims of crime;

(e) Make recommendations on funding necessary to provide appropriate services to the underserved victims, with recommendations on revenue sources; and

(f) Identify statutory and administrative barriers to improving the delivery of cost-effective and coordinated services to crime victims.

(5) State and local government agencies that participate in the delivery of services to crime victims shall, upon request, provide information and technical assistance to the task force, within existing funds.

(6) The task force shall report its findings and recommendations to the governor and the legislature by November 30, 2002.

(7) The office of community development shall provide necessary administrative and clerical support to the task force.

(8) The members of the task force shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(9) The task force expires March 1, 2003.

(10) This section expires March 1, 2003.

Passed the Senate March 11, 2002.

Passed the House March 7, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 352

[Substitute Senate Bill 6814]
TRANSPORTATION FEES

AN ACT Relating to transportation fees; amending RCW 46.09.070, 46.10.040, 46.12.040, 46.12.080, 46.12.181, 46.16.0621, 46.16.160, 46.16.630, 46.20.055, 46.20.070, 46.20.117, 46.20.200, 46.20.293, 46.20.505, 46.20.510, 46.25.060, 46.29.050, 46.52.130, 46.68.020, 46.68.030, 46.70.061, 46.82.310, 46.82.320, and 82.38.110; reenacting and amending RCW 46.12.170 and 46.20.120; adding a new section to chapter 46.01 RCW; creating a new section; repealing RCW 46.16.065; and providing effective dates.

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

Sec. 1. RCW 46.09.070 and 1997 c 241 s 1 are each amended to read as follows:

(1) Application for annual or temporary ORV use permits shall be made to the department or its authorized agent in such manner and upon such forms as the department shall prescribe and shall state the name and address of each owner of the off-road vehicle.

(2) An application for an annual permit shall be signed by at least one owner, and shall be accompanied by a fee of five dollars. Upon receipt of the annual permit application and the application fee, the off-road vehicle shall be assigned a use permit number tag or decal, which shall be affixed to the off-road vehicle in a manner prescribed by the department. The annual permit is valid for a period of one year and is renewable each year in such manner as the department may prescribe for an additional period of one year upon payment of a renewal fee of five dollars.

Any person acquiring an off-road vehicle for which an annual permit has been issued who desires to continue to use the permit must, within fifteen days of the acquisition of the off-road vehicle, make application to the department or its

authorized agent for transfer of the permit, and the application shall be accompanied by a transfer fee of ~~((one dollar and twenty-five cents))~~ five dollars.

(3) A temporary use permit is valid for sixty days. Application for a temporary permit shall be accompanied by a fee of two dollars. The permit shall be carried on the vehicle at all times during its operation in the state.

(4) Except as provided in RCW 46.09.050, any out-of-state operator of an off-road vehicle shall, when operating in this state, comply with this chapter, and if an ORV use permit is required under this chapter, the operator shall obtain an annual or temporary permit and tag.

Sec. 2. RCW 46.10.040 and 2001 2nd sp.s. c 7 s 918 are each amended to read as follows:

Application for registration shall be made to the department in the manner and upon forms the department prescribes, and shall state the name and address of each owner of the snowmobile to be registered, and shall be signed by at least one such owner, and shall be accompanied by an annual registration fee to be established by the commission, after consultation with the committee and any statewide snowmobile user groups. The commission shall increase the current fee of twenty dollars by five dollars effective September 30, 2001, and the commission shall increase the fee by another five dollars effective September 30, 2002. After the fee increase effective September 30, 2002, the commission shall not increase the fee. Upon receipt of the application and the application fee, the snowmobile shall be registered and a registration number assigned, which shall be affixed to the snowmobile in a manner provided in RCW 46.10.070.

The registration provided in this section shall be valid for a period of one year. At the end of the period of registration, every owner of a snowmobile in this state shall renew his or her registration in the manner the department prescribes, for an additional period of one year, upon payment of the annual registration fee as determined by the commission.

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

A snowmobile owned by a resident of another state or Canadian province where registration is not required by law may be issued a nonresident registration permit valid for not more than sixty days. Application for the permit shall state the name and address of each owner of the snowmobile to be registered and shall be signed by at least one owner and shall be accompanied by a registration fee of five dollars. The registration permit shall be carried on the vehicle at all times during its operation in this state.

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

state agency shall hereafter impose any other registration or license fee on any snowmobile in this state.

The department shall make available a pair of uniform decals consistent with the provisions of RCW 46.10.070. In addition to the registration fee provided in this section the department shall charge each applicant for registration the actual cost of the decal. The department shall make available replacement decals for a fee equivalent to the actual cost of the decals.

Sec. 3. RCW 46.12.040 and 2001 c 125 s 2 are each amended to read as follows:

The application accompanied by a draft, money order, certified bank check, or cash for ~~((one dollar and twenty-five cents))~~ five dollars, together with the last preceding certificates or other satisfactory evidence of ownership, shall be forwarded to the director.

The fee shall be in addition to any other fee for the license registration of the vehicle. The certificate of ownership shall not be required to be renewed annually, or at any other time, except as by law provided.

In addition to the application fee and any other fee for the license registration of a vehicle, the department shall collect from the applicant a fee of fifteen dollars for vehicles previously registered in any other state or country. The proceeds from the fee shall be deposited in the motor vehicle fund. For vehicles requiring a physical examination, the inspection fee shall be fifty dollars and shall be deposited in the motor vehicle fund.

Sec. 4. RCW 46.12.080 and 1997 c 241 s 4 are each amended to read as follows:

Any person holding the certificate of ownership for a motorcycle or any vehicle registered by its motor number in which there has been installed a new or different motor than that with which it was issued certificates of ownership and license registration shall forthwith and within five days after such installation forward and surrender such certificates to the department, together with an application for issue of corrected certificates of ownership and license registration and a fee of ~~((one dollar and twenty-five cents))~~ five dollars, and a statement of the disposition of the former motor. The possession by any person of any such certificates for such vehicle in which a new or different motor has been installed, after five days following such installation, shall be prima facie evidence of a violation of the provisions of this chapter and shall constitute a misdemeanor.

Sec. 5. RCW 46.12.170 and 1997 c 432 s 5 and 1997 c 241 s 5 are each reenacted and amended to read as follows:

If, after a certificate of ownership is issued, a security interest is granted on the vehicle described therein, the registered owner or secured party shall, within ten days thereafter, present an application to the department, to which shall be attached the certificate of ownership last issued covering the vehicle, or such other documentation as may be required by the department, which application shall be

upon a form approved by the department and shall be accompanied by a fee of ~~((one dollar and twenty-five cents))~~ five dollars in addition to all other fees. The department, if satisfied that there should be a reissue of the certificate, shall note such change upon the vehicle records and issue to the secured party a new certificate of ownership.

Whenever there is no outstanding secured obligation and no commitment to make advances and incur obligations or otherwise give value, the secured party must assign the certificate of ownership to the debtor or the debtor's assignee or transferee, and transmit the certificate to the department with an accompanying fee of ~~((one dollar and twenty-five cents))~~ five dollars in addition to all other fees. The department shall then issue a new certificate of ownership and transmit it to the owner. If the affected secured party fails to either assign the certificate of ownership to the debtor or the debtor's assignee or transferee or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor or the debtor's assignee or transferee for one hundred dollars, and in addition for any loss caused to the debtor or the debtor's assignee or transferee by such failure.

Sec. 6. RCW 46.12.181 and 1997 c 241 s 7 are each amended to read as follows:

If a certificate of ownership is lost, stolen, mutilated, or destroyed or becomes illegible, the first priority secured party or, if none, the owner or legal representative of the owner named in the certificate, as shown by the records of the department, shall promptly make application for and may obtain a duplicate upon tender of ~~((one dollar and twenty-five cents))~~ five dollars in addition to all other fees and upon furnishing information satisfactory to the department. The duplicate certificate of ownership shall contain the legend, "duplicate." It shall be provided to the first priority secured party named in it or, if none, to the owner.

A person recovering an original certificate of ownership for which a duplicate has been issued shall promptly surrender the original certificate to the department.

Sec. 7. RCW 46.16.0621 and 2000 1st sp.s. c 1 s 1 are each amended to read as follows:

(1) License tab fees shall be thirty dollars per year for ~~((motor))~~ all vehicles ~~((; regardless of year, value, make, or model, beginning January 1, 2000)).~~

(2) For the purposes of this section, "license tab fees" are defined as the general fees paid annually for licensing motor vehicles ~~((; including cars, sport utility vehicles, motorcycles, and motor homes))~~ and trailers as defined in RCW 46.04.620 and 46.04.623. Trailers licensed under RCW 46.16.068 or 46.16.085 and campers licensed under RCW 46.16.505 are not required to pay license tab fees under this section.

Sec. 8. RCW 46.16.160 and 1999 c 270 s 1 are each amended to read as follows:

(1) The owner of a vehicle which under reciprocal relations with another jurisdiction would be required to obtain a license registration in this state or an unlicensed vehicle which would be required to obtain a license registration for operation on public highways of this state may, as an alternative to such license registration, secure and operate such vehicle under authority of a trip permit issued by this state in lieu of a Washington certificate of license registration, and licensed gross weight if applicable. The licensed gross weight may not exceed eighty thousand pounds for a combination of vehicles nor forty thousand pounds for a single unit vehicle with three or more axles. Trip permits may also be issued for movement of mobile homes pursuant to RCW 46.44.170. For the purpose of this section, a vehicle is considered unlicensed if the licensed gross weight currently in effect for the vehicle or combination of vehicles is not adequate for the load being carried. Vehicles registered under RCW 46.16.135 shall not be operated under authority of trip permits in lieu of further registration within the same registration year.

(2) Each trip permit shall authorize the operation of a single vehicle at the maximum legal weight limit for such vehicle for a period of three consecutive days commencing with the day of first use. No more than three such permits may be used for any one vehicle in any period of thirty consecutive days, except that in the case of a recreational vehicle as defined in RCW 43.22.335, no more than two trip permits may be used for any one vehicle in a one-year period. Every permit shall identify, as the department may require, the vehicle for which it is issued and shall be completed in its entirety and signed by the operator before operation of the vehicle on the public highways of this state. Correction of data on the permit such as dates, license number, or vehicle identification number invalidates the permit. The trip permit shall be displayed on the vehicle to which it is issued as prescribed by the department.

(3) Vehicles operating under authority of trip permits are subject to all laws, rules, and regulations affecting the operation of like vehicles in this state.

(4) Prorate operators operating commercial vehicles on trip permits in Washington shall retain the customer copy of such permit for four years.

(5) Trip permits may be obtained from field offices of the department of transportation, Washington state patrol, department of licensing, or other agents appointed by the department. The fee for each trip permit is fifteen dollars. For each permit issued, ~~((there shall be collected))~~ the fee includes a filing fee as provided by RCW 46.01.140~~((, an administrative fee of eight dollars,))~~ and an excise tax of one dollar. ~~((If the filing fee amount of one dollar prescribed by RCW 46.01.140 is increased or decreased after January 1, 1981, the administrative fee shall be adjusted to compensate for such change to insure that the total amount collected for the filing fee, administrative fee, and excise tax remain at ten dollars.))~~ The remaining portion of the trip permit fee must be deposited to the credit of the motor vehicle fund as an administrative fee. If the filing fee amount of three dollars as prescribed in RCW 46.01.140 is increased or decreased after

July 1, 2002, the administrative fee must be increased or decreased by the same amount so that the total trip permit would be adjusted equally to compensate. These fees and taxes are in lieu of all other vehicle license fees and taxes. No exchange, credits, or refunds may be given for trip permits after they have been purchased.

(6) The department may appoint county auditors or businesses as agents for the purpose of selling trip permits to the public. County auditors or businesses so appointed may retain the filing fee collected for each trip permit to defray expenses incurred in handling and selling the permits.

(7) A violation of or a failure to comply with any provision of this section is a gross misdemeanor.

(8) The department of licensing may adopt rules as it deems necessary to administer this section.

(9) A surcharge of five dollars is imposed on the issuance of trip permits. The portion of the surcharge paid by motor carriers must be deposited in the motor vehicle fund for the purpose of supporting vehicle weigh stations, weigh-in-motion programs, and the commercial vehicle information systems and networks program. The remaining portion of the surcharge must be deposited in the motor vehicle fund for the purpose of supporting congestion relief programs. All other administrative fees and excise taxes collected under the provisions of this chapter shall be forwarded by the department with proper identifying detailed report to the state treasurer who shall deposit the administrative fees to the credit of the motor vehicle fund and the excise taxes to the credit of the general fund. Filing fees will be forwarded and reported to the state treasurer by the department as prescribed in RCW 46.01.140.

Sec. 9. RCW 46.16.630 and 1997 c 241 s 11 are each amended to read as follows:

Application for registration of a moped shall be made to the department of licensing in such manner and upon such forms as the department shall prescribe, and shall state the name and address of each owner of the moped to be registered, the vehicle identification number, and such other information as the department may require, and shall be accompanied by a registration fee of ~~((three))~~ thirty dollars. Upon receipt of the application and the application fee, the moped shall be registered and a registration number assigned, which shall be affixed to the moped in the manner as provided by rules adopted by the department. The registration provided in this section shall be valid for a period of twelve months.

Every owner of a moped in this state shall renew the registration, in such manner as the department shall prescribe, for an additional period of twelve months, upon payment of a renewal fee of ~~((three))~~ thirty dollars.

Any person acquiring a moped already validly registered must, within fifteen days of the acquisition or purchase of the moped, make application to the department for transfer of the registration, and the application shall be accompanied by a transfer fee of ~~((one dollar and twenty-five cents))~~ five dollars.

The registration fees provided in this section shall be in lieu of any personal property tax or the vehicle excise tax imposed by chapter 82.44 RCW.

The department shall, at the time the registration number is assigned, make available a decal or other identifying device to be displayed on the moped. A fee of one dollar and fifty cents shall be charged for the decal or other identifying device.

The provisions of RCW 46.01.130 and 46.01.140 shall apply to applications for the issuance of registration numbers or renewals or transfers thereof for mopeds as they do to the issuance of vehicle licenses, the appointment of agents, and the collection of application fees. Except for the fee collected pursuant to RCW 46.01.140, all fees collected under this section shall be deposited in the motor vehicle fund.

Sec. 10. RCW 46.20.055 and 1999 c 274 s 13 are each amended to read as follows:

(1) **Driver's instruction permit.** The department may issue a driver's instruction permit with or without a photograph to an applicant who has successfully passed all parts of the examination other than the driving test, provided the information required by RCW 46.20.091, paid a ~~((five-dollar))~~ fee of fifteen dollars, and meets the following requirements:

(a) Is at least fifteen and one-half years of age; or

(b) Is at least fifteen years of age and:

(i) Has submitted a proper application; and

(ii) Is enrolled in a traffic safety education program approved and accredited by the superintendent of public instruction that includes practice driving.

~~(2) ((Nonphoto permit fee. An applicant who meets the requirements of subsection (1) of this section other than payment of the five-dollar fee may obtain a driver's instruction permit without a photograph by paying a fee of four dollars.~~

~~(3))~~ **Waiver of written examination for instruction permit.** The department may waive the written examination, if, at the time of application, an applicant is enrolled in:

(a) A traffic safety education course as defined by RCW 28A.220.020(2); or

(b) A course of instruction offered by a licensed driver training school as defined by RCW 46.82.280(1).

The department may require proof of registration in such a course as it deems necessary.

~~((4))~~ **(3) Effect of instruction permit.** A person holding a driver's instruction permit may drive a motor vehicle, other than a motorcycle, upon the public highways if:

(a) The person has immediate possession of the permit; and

(b) An approved instructor, or a licensed driver with at least five years of driving experience, occupies the seat beside the driver.

~~((5))~~ **(4) Term of instruction permit.** A driver's instruction permit is valid for one year from the date of issue.

(a) The department may issue one additional one-year permit.

(b) The department may issue a third driver's permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

Sec. 11. RCW 46.20.070 and 1999 c 6 s 13 are each amended to read as follows:

(1) **Agricultural driving permit authorized.** The director may issue a juvenile agricultural driving permit to a person under the age of eighteen years if:

(a) The application is signed by the applicant and the applicant's father, mother, or legal guardian;

(b) The applicant has passed the driving examination required by RCW 46.20.120;

(c) The department has investigated the applicant's need for the permit and determined that the need justifies issuance;

(d) The department has determined the applicant is capable of operating a motor vehicle without endangering himself or herself or other persons and property; and

(e) The applicant has paid a fee of (~~three~~) fifteen dollars.

The permit must contain a photograph of the person.

(2) **Effect of agricultural driving permit.** (a) The permit authorizes the holder to:

(i) Drive a motor vehicle on the public highways of this state in connection with farm work. The holder may drive only within a restricted farming locality described on the permit; and

(ii) Participate in the classroom portion of a traffic safety education course authorized under RCW 28A.220.030 offered in the community where the holder resides.

(b) The director may transfer the permit from one farming locality to another. A transfer is not a renewal of the permit.

(3) **Term and renewal of agricultural driving permit.** An agricultural driving permit expires one year from the date of issue.

(a) A person under the age of eighteen who holds a permit may renew the permit by paying a (~~three-dollar~~) fee of fifteen dollars.

(b) An agricultural driving permit is invalidated when a permittee attains age eighteen. In order to drive a motor vehicle on a highway he or she must obtain a motor vehicle driver's license under this chapter.

(4) **Suspension, revocation, or cancellation.** The director has sole discretion to suspend, revoke, or cancel a juvenile agricultural driving permit if:

(a) The permittee has been found to have committed an offense that requires mandatory suspension or revocation of a driver's license; or

(b) The director is satisfied that the permittee has violated the permit's restrictions.

Sec. 12. RCW 46.20.117 and 1999 c 274 s 15 are each amended to read as follows:

(1) **Issuance.** The department shall issue an identicard, containing a picture, if the applicant:

(a) Does not hold a valid Washington driver's license;

(b) Proves his or her identity as required by RCW 46.20.035; and

(c) Pays the required fee. The fee is ~~((four))~~ fifteen dollars unless an applicant is a recipient of continuing public assistance grants under Title 74 RCW, who is referred in writing by the secretary of social and health services. For those persons the fee must be the actual cost of production of the identicard.

(2) **Design and term.** The identicard must:

(a) Be distinctly designed so that it will not be confused with the official driver's license; and

(b) Expire on the fifth anniversary of the applicant's birthdate after issuance.

(3) **Cancellation.** The department may cancel an identicard if the holder of the identicard used the card or allowed others to use the card in violation of RCW 46.20.0921.

Sec. 13. RCW 46.20.120 and 1999 c 308 s 1 and 1999 c 199 s 3 are each reenacted and amended to read as follows:

An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The department shall give examinations at places and times reasonably available to the people of this state.

(1) **Waiver.** The department may waive:

(a) All or any part of the examination of any person applying for the renewal of a driver's license unless the department determines that the applicant is not qualified to hold a driver's license under this title; or

(b) The actual demonstration of the ability to operate a motor vehicle if the applicant:

(i) Surrenders a valid driver's license issued by the person's previous home state; and

(ii) Is otherwise qualified to be licensed.

(2) **Fee.** Each applicant for a new license must pay an examination fee of ~~((seven))~~ ten dollars.

(a) The examination fee is in addition to the fee charged for issuance of the license.

(b) "New license" means a license issued to a driver:

(i) Who has not been previously licensed in this state; or

(ii) Whose last previous Washington license has been expired for more than five years.

(3) A person whose license expired or will expire on or after January 1, 1998, while he or she was or is living outside the state may:

(a) Apply to the department to extend the validity of his or her license for no more than twelve months. If the person establishes to the department's satisfaction that he or she is unable to return to Washington before the date his or her license

expires, the department shall extend the person's license. The department may grant consecutive extensions, but in no event may the cumulative total of extensions exceed twelve months. An extension granted under this section does not change the expiration date of the license for purposes of RCW 46.20.181. The department shall charge a fee of five dollars for each license extension;

(b) Apply to the department to renew his or her license by mail. If the person establishes to the department's satisfaction that he or she is unable to return to Washington within twelve months of the date that his or her license expires, the department shall renew the person's license by mail. If a person qualifies for a mail-in renewal he or she is not required to pass an examination nor provide an updated photograph. He or she must, however, pay the fee required by RCW 46.20.181 plus an additional five-dollar mail-in renewal fee. A license renewed by mail that does not include a photograph of the licensee must be labeled "not valid for identification purposes."

(4) If a person's driver's license is extended or renewed under subsection (3) of this section while he or she is outside the state, he or she must submit to the examination required under this section within sixty days of returning to this state. The department will not assess a penalty or examination fee for the examination.

Sec. 14. RCW 46.20.200 and 1985 ex.s. c 1 s 5 are each amended to read as follows:

(1) If an instruction permit, identicard, or a driver's license is lost or destroyed, the person to whom it was issued may obtain a duplicate of it upon furnishing proof of such fact satisfactory to the department and payment of a fee of ~~((five))~~ fifteen dollars to the department.

(2) A replacement permit, identicard, or driver's license may be obtained to change or correct material information upon payment of a fee of ~~((two))~~ ten dollars and surrender of the permit, identicard, or driver's license being replaced.

Sec. 15. RCW 46.20.293 and 1999 c 86 s 3 are each amended to read as follows:

The department is authorized to provide juvenile courts with the department's record of traffic charges compiled under RCW 46.52.101 and 13.50.200, against any minor upon the request of any state juvenile court or duly authorized officer of any juvenile court of this state. Further, the department is authorized to provide any juvenile court with any requested service which the department can reasonably perform which is not inconsistent with its legal authority which substantially aids juvenile courts in handling traffic cases and which promotes highway safety.

The department is authorized to furnish to the parent, parents, or guardian of any person under eighteen years of age who is not emancipated from such parent, parents, or guardian, the department records of traffic charges compiled against the person and shall collect for the copy a fee of ~~((four dollars and fifty cents))~~ five dollars to be deposited in the highway safety fund.

Sec. 16. RCW 46.20.505 and 2001 c 104 s 1 are each amended to read as follows:

Every person applying for a special endorsement of a driver's license authorizing such person to drive a motorcycle or a motor-driven cycle shall pay a fee of ~~((two))~~ five dollars, which is not refundable. In addition, the endorsement fee for the initial motorcycle endorsement shall not exceed ten dollars, and the subsequent renewal endorsement fee shall not exceed twenty-five dollars, unless the endorsement is renewed or extended for a period other than five years, in which case the subsequent renewal endorsement fee shall not exceed five dollars for each year that the endorsement is renewed or extended. The initial and renewal endorsement fees shall be deposited in the motorcycle safety education account of the highway safety fund.

Sec. 17. RCW 46.20.510 and 1999 c 274 s 10 are each amended to read as follows:

(1) **Motorcycle instruction permit.** A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply for a motorcycle instruction permit. The department may issue a motorcycle instruction permit after the applicant has successfully passed all parts of the motorcycle examination other than the driving test. The director shall collect a ~~((two dollar and fifty cent))~~ fee of fifteen dollars for the motorcycle instruction permit or renewal, and deposit the fee in the motorcycle safety education account of the highway safety fund.

(2) **Effect of motorcycle instruction permit.** A person holding a motorcycle instruction permit may drive a motorcycle upon the public highways if the person has immediate possession of the permit and a valid driver's license. An individual with a motorcyclist's instruction permit may not carry passengers and may not operate a motorcycle during the hours of darkness.

(3) **Term of motorcycle instruction permit.** A motorcycle instruction permit is valid for ninety days from the date of issue.

(a) The department may issue one additional ninety-day permit.

(b) The department may issue a third motorcycle instruction permit if it finds after an investigation that the permittee is diligently seeking to improve driving proficiency.

Sec. 18. RCW 46.25.060 and 1989 c 178 s 8 are each amended to read as follows:

(1)(a) No person may be issued a commercial driver's license unless that person is a resident of this state and has passed a knowledge and skills test for driving a commercial motor vehicle that complies with minimum federal standards established by federal regulation enumerated in 49 C.F.R. part 383, subparts G and H, and has satisfied all other requirements of the CMVSA in addition to other requirements imposed by state law or federal regulation. The tests must be prescribed and conducted by the department. In addition to the fee charged for issuance or renewal of any license, the applicant shall pay a fee of no more than ten dollars for each classified knowledge examination, classified endorsement

knowledge examination, or any combination of classified license and endorsement knowledge examinations. The applicant shall pay a fee of no more than fifty dollars for each classified skill examination or combination of classified skill examinations conducted by the department.

(b) The department may authorize a person, including an agency of this or another state, an employer, a private driver training facility, or other private institution, or a department, agency, or instrumentality of local government, to administer the skills test specified by this section under the following conditions:

(i) The test is the same which would otherwise be administered by the state;

(ii) The third party has entered into an agreement with the state that complies with the requirements of 49 C.F.R. part 383.75; and

(iii) The director has adopted rules as to the third party testing program and the development and justification for fees charged by any third party.

(2) The department may waive the skills test specified in this section for a commercial driver's license applicant who meets the requirements of 49 C.F.R. part 383.77.

(3) A commercial driver's license or commercial driver's instruction permit may not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or while the person's driver's license is suspended, revoked, or canceled in any state, nor may a commercial driver's license be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders all such licenses, which must be returned to the issuing state for cancellation.

(4)(a) A commercial driver's instruction permit may be issued to an individual who holds a valid automobile or classified driver's license.

(b) A commercial driver's instruction permit may not be issued for a period to exceed six months. Only one renewal or reissuance may be granted within a two-year period. The holder of a commercial driver's instruction permit may drive a commercial motor vehicle on a highway only when accompanied by the holder of a commercial driver's license valid for the type of vehicle driven who occupies a seat beside the individual for the purpose of giving instruction in driving the commercial motor vehicle. An application for a commercial driver's instruction permit shall be accompanied by a fee of ~~((five))~~ ten dollars. The department shall forthwith transmit the fees collected for commercial driver's instruction permits to the state treasurer.

Sec. 19. RCW 46.29.050 and 1987 1st ex.s. c 9 s 1 are each amended to read as follows:

(1) The department shall upon request furnish any person or his attorney a certified abstract of his driving record, which abstract shall include enumeration of any motor vehicle accidents in which such person has been involved. Such abstract shall (a) indicate the total number of vehicles involved, whether the vehicles were legally parked or moving, and whether the vehicles were occupied at the time of the accident; and (b) contain reference to any convictions of the

person for violation of the motor vehicle laws as reported to the department, reference to any findings that the person has committed a traffic infraction which have been reported to the department, and a record of any vehicles registered in the name of the person. The department shall collect for each abstract the sum of ~~((four dollars and fifty cents))~~ five dollars, which shall be deposited in the highway safety fund.

(2) The department shall upon request furnish any person who may have been injured in person or property by any motor vehicle, with an abstract of all information of record in the department pertaining to the evidence of the ability of any driver or owner of any motor vehicle to respond in damages. The department shall collect for each abstract the sum of ~~((four dollars and fifty cents))~~ five dollars, which shall be deposited in the highway safety fund.

Sec. 20. RCW 46.52.130 and 2001 c 309 s 1 are each amended to read as follows:

A certified abstract of the driving record shall be furnished only to the individual named in the abstract, an employer or prospective employer or an agent acting on behalf of an employer or prospective employer, the insurance carrier that has insurance in effect covering the employer or a prospective employer, the insurance carrier that has insurance in effect covering the named individual, the insurance carrier to which the named individual has applied, an alcohol/drug assessment or treatment agency approved by the department of social and health services, to which the named individual has applied or been assigned for evaluation or treatment, or city and county prosecuting attorneys. City attorneys and county prosecuting attorneys may provide the driving record to alcohol/drug assessment or treatment agencies approved by the department of social and health services to which the named individual has applied or been assigned for evaluation or treatment. The director, upon proper request, shall furnish a certified abstract covering the period of not more than the last three years to insurance companies. Upon proper request, the director shall furnish a certified abstract covering a period of not more than the last five years to state approved alcohol/drug assessment or treatment agencies, except that the certified abstract shall also include records of alcohol-related offenses as defined in RCW 46.01.260(2) covering a period of not more than the last ten years. Upon proper request, a certified abstract of the full driving record maintained by the department shall be furnished to a city or county prosecuting attorney, to the individual named in the abstract or to an employer or prospective employer or an agent acting on behalf of an employer or prospective employer of the named individual. The abstract, whenever possible, shall include an enumeration of motor vehicle accidents in which the person was driving; the total number of vehicles involved; whether the vehicles were legally parked or moving; whether the vehicles were occupied at the time of the accident; whether the accident resulted in any fatality; any reported convictions, forfeitures of bail, or findings that an infraction was committed based upon a violation of any motor vehicle law; and the status of the person's driving privilege in this state. The

enumeration shall include any reports of failure to appear in response to a traffic citation or failure to respond to a notice of infraction served upon the named individual by an arresting officer. Certified abstracts furnished to prosecutors and alcohol/drug assessment or treatment agencies shall also indicate whether a recorded violation is an alcohol-related offense as defined in RCW 46.01.260(2) that was originally charged as one of the alcohol-related offenses designated in RCW 46.01.260(2)(b)(i).

The abstract provided to the insurance company shall exclude any information, except that related to the commission of misdemeanors or felonies by the individual, pertaining to law enforcement officers or fire fighters as defined in RCW 41.26.030, or any officer of the Washington state patrol, while driving official vehicles in the performance of occupational duty. The abstract provided to the insurance company shall include convictions for RCW 46.61.5249 and 46.61.525 except that the abstract shall report them only as negligent driving without reference to whether they are for first or second degree negligent driving. The abstract provided to the insurance company shall exclude any deferred prosecution under RCW 10.05.060, except that if a person is removed from a deferred prosecution under RCW 10.05.090, the abstract shall show the deferred prosecution as well as the removal.

The director shall collect for each abstract the sum of (~~four dollars and fifty cents~~) five dollars, which shall be deposited in the highway safety fund.

Any insurance company or its agent receiving the certified abstract shall use it exclusively for its own underwriting purposes and shall not divulge any of the information contained in it to a third party. No policy of insurance may be canceled, nonrenewed, denied, or have the rate increased on the basis of such information unless the policyholder was determined to be at fault. No insurance company or its agent for underwriting purposes relating to the operation of commercial motor vehicles may use any information contained in the abstract relative to any person's operation of motor vehicles while not engaged in such employment, nor may any insurance company or its agent for underwriting purposes relating to the operation of noncommercial motor vehicles use any information contained in the abstract relative to any person's operation of commercial motor vehicles.

Any employer or prospective employer or an agent acting on behalf of an employer or prospective employer receiving the certified abstract shall use it exclusively for his or her own purpose to determine whether the licensee should be permitted to operate a commercial vehicle or school bus upon the public highways of this state and shall not divulge any information contained in it to a third party.

Any alcohol/drug assessment or treatment agency approved by the department of social and health services receiving the certified abstract shall use it exclusively for the purpose of assisting its employees in making a determination as to what

level of treatment, if any, is appropriate. The agency, or any of its employees, shall not divulge any information contained in the abstract to a third party.

Release of a certified abstract of the driving record of an employee or prospective employee requires a statement signed by: (1) The employee or prospective employee that authorizes the release of the record, and (2) the employer attesting that the information is necessary to determine whether the licensee should be employed to operate a commercial vehicle or school bus upon the public highways of this state. If the employer or prospective employer authorizes an agent to obtain this information on their behalf, this must be noted in the statement.

Any negligent violation of this section is a gross misdemeanor.

Any intentional violation of this section is a class C felony.

Sec. 21. RCW 46.68.020 and 1961 c 12 s 46.68.020 are each amended to read as follows:

The director shall forward all fees for certificates of ownership or other moneys accruing under the provisions of chapter 46.12 RCW to the state treasurer, together with a proper identifying detailed report. The state treasurer shall credit such moneys to the ~~((motor vehicle fund))~~ multimodal transportation account in RCW 47.66.070, and all expenses incurred in carrying out the provisions of that chapter shall be paid from such ~~((fund))~~ account as authorized by legislative appropriation.

Sec. 22. RCW 46.68.030 and 1990 c 42 s 109 are each amended to read as follows:

Except for proceeds from fees for vehicle licensing for vehicles paying such fees under RCW 46.16.070 and 46.16.085, and as otherwise provided for in chapter 46.16 RCW, all fees received by the director for vehicle licenses under the provisions of chapter 46.16 RCW shall be forwarded to the state treasurer, accompanied by a proper identifying detailed report, and be deposited to the credit of the motor vehicle fund, except that the proceeds from the vehicle license fee and renewal license fee shall be deposited by the state treasurer as hereinafter provided. After July 1, ~~((1981, that portion of each vehicle license fee in excess of \$7.40 and that portion))~~ 2002, \$20.35 of each original or renewal license fee ~~((in excess of \$3.40 shall))~~ must be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal license fees, and all other funds in the state patrol highway account shall be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations therefor ~~((, for any fiscal biennium after June 30, 1981, and twenty-seven and three-tenths percent of the proceeds from \$7.40 of each vehicle license fee and \$3.40))~~, \$2.02 of each original vehicle license fee and \$0.93 of each renewal license fee shall be deposited each biennium in the Puget Sound ferry operations account. Any remaining amounts of vehicle license fees and renewal license fees that are not ~~((deposited in the Puget~~

~~Sound ferry operations account shall~~) distributed otherwise under this section must be deposited in the motor vehicle fund.

Sec. 23. RCW 46.70.061 and 1990 c 250 s 65 are each amended to read as follows:

(1) The annual fees for original licenses issued for twelve consecutive months from the date of issuance under this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: ~~((Five))~~ Seven hundred fifty dollars;

(b) Vehicle dealers, each subagency~~((Fifty dollars;)), and~~ temporary subagency: ~~((Twenty-five))~~ One hundred dollars;

(c) Vehicle manufacturers: Five hundred dollars.

(2) The annual fee for renewal of any license issued pursuant to this chapter shall be:

(a) Vehicle dealers, principal place of business for each and every license classification: Two hundred fifty dollars;

(b) Vehicle dealer, each and every subagency: Twenty-five dollars;

(c) Vehicle manufacturers: Two hundred fifty dollars.

If any licensee fails or neglects to apply for such renewal within thirty days after the expiration of the license, or assigned renewal date under a staggered licensing system, the license shall be declared canceled by the director, in which case the licensee will be required to apply for an original license and pay the fee required for the original license.

(3) The fee for the transfer to another location of any license classification issued pursuant to this chapter shall be twenty-five dollars.

(4) The fee for vehicle dealer license plates and manufacturer license plates shall be the amount required by law for vehicle license plates exclusive of excise tax~~((, except those specified in RCW 82.44.030;))~~ and gross weight and tonnage fees.

(5) All fees collected under this chapter shall be deposited in the state treasury and credited to the motor vehicle fund.

(6) The fees prescribed in this section are in addition to any excise taxes imposed by chapter 82.44 RCW.

Sec. 24. RCW 46.82.310 and 1979 ex.s. c 51 s 4 are each amended to read as follows:

(1) No person shall engage in the business of conducting a driver training school without a license issued by the director for that purpose. An application for a driver training school license shall be filed with the director, containing such information as prescribed by the director, accompanied by an application fee of ~~((one))~~ three hundred dollars, which shall in no event be refunded. If an application is approved by the director, the applicant upon payment of an additional fee of ~~((twenty-five))~~ two hundred dollars shall be granted a license valid for a period of one year from the date of issuance.

(2) The annual fee for renewal of a school license shall be ~~((twenty-five))~~ two hundred fifty dollars. The director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the licensee. If a renewal application has not been received by the director within sixty days from the date a notice of license expiration was mailed to the licensee, the license will be void requiring a new application as provided for in this chapter, including payment of all fees.

(3) The person to whom a driver training school license has been issued must notify the director in writing within thirty days after any change is made in the officers, directors, or location of the place of business of the school.

(4) Driver training school licenses shall not be transferable. In the event of any transfer of ownership in the business, an application for a new license, including payment of all fees, must be made. The director shall permit continuance of the business for a period not to exceed sixty days from ~~((the))~~ the date of transfer pending approval of the new application for a school license.

(5) The director shall not issue or renew a school license certificate until the licensee has filed with the director evidence of liability insurance coverage with an insurance company authorized to do business in this state in the amount of not less than three hundred thousand dollars because of bodily injury or death to two or more persons in any one accident, not less than one hundred thousand dollars because of bodily injury or death to one person in one accident, and not less than fifty thousand dollars because of property damage to others in one accident, and the coverage shall include uninsured motorists coverage. The insurance coverage shall be maintained in full force and effect and the director shall be notified at least ten days prior to cancellation or expiration of any such policy of insurance.

(6) The increased insurance requirements of subsection (5) of this section must be in effect by no later than one year after September 1, 1979.

Sec. 25. RCW 46.82.320 and 1989 c 337 s 18 are each amended to read as follows:

(1) No person, including the owner, operator, partner, officer, or stockholder of a driver training school shall give instruction in the operation of an automobile for a fee without a license issued by the director for that purpose. An application for an instructor's license shall be filed with the director, containing such information as prescribed by the director, accompanied by an application fee of ~~((twenty-five))~~ seventy-five dollars, which shall in no event be refunded. If the application is approved by the director and the applicant satisfactorily meets the examination requirements as prescribed in RCW 46.82.330, the applicant shall be granted a license valid for a period of one year from the date of issuance. An instructor shall take a requalification examination every five years.

(2) The annual fee for renewal of an instructor's license shall be ~~((five))~~ twenty-five dollars. The director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the employing driver training school. Unless revoked, canceled, or denied by the director, the

license shall remain the property of the licensee in the event of termination of employment or employment by another driver training school. If a renewal application has not been received by the director within sixty days from the date a notice of license expiration was mailed to the licensee, the license will be voided requiring a new application as provided for in this chapter, including examination and payment of all fees.

(3) Persons who qualify under the rules jointly adopted by the superintendent of public instruction and the director of licensing to teach only the laboratory phase, shall be subject to a ten dollar examination fee.

(4) Each licensee shall be provided with a wallet-size identification card by the director at the time the license is issued which shall be carried on the instructor's person at all times while engaged in instructing.

(5) The person to whom an instructor's license has been issued shall notify the director in writing within thirty days of any change of employment or termination of employment, providing the name and address of the new driver training school by whom the instructor will be employed.

Sec. 26. RCW 82.38.110 and 2001 c 270 s 8 are each amended to read as follows:

(1) Application for a license issued under this chapter 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.

(2) Every application for a special fuel license, other than an application for a dyed special fuel user or international fuel tax agreement license, must contain the following information to the extent it applies to the applicant:

(a) Proof as the department shall require concerning the applicant's identity, including but not limited to his or her fingerprints or those of the officers of a corporation making the application;

(b) The applicant's form and place of organization including proof that the individual, partnership, or 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 an unsatisfied judgment in a federal or state court;

(e) Whether the applicant has been adjudged guilty of a crime that 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 a judgment within the preceding five years in a civil action involving fraud, misrepresentation, or conversion and in the case of a corporation or partnership, all directors, officers, or partners.

(3) An applicant for a license as a special fuel importer must list on the application each state, province, or country from which the applicant intends to import fuel and, if required by the state, province, or country listed, must be

licensed or registered for special fuel tax purposes in that state, province, or country.

(4) An applicant for a license as a special fuel exporter must list on the application each state, province, or country to which the exporter intends to export special fuel received in this state by means of a transfer outside the bulk transfer-terminal system and, if required by the state, province, or country listed, must be licensed or registered for special fuel tax purposes in that state, province, or country.

(5) An applicant for a license as a special fuel supplier must have a federal certificate of registry that is issued under the internal revenue code and authorizes the applicant to enter into federal tax-free transactions on special fuel in the terminal transfer system.

(6) After receipt of an application for a license, the director shall conduct an investigation to determine whether the facts set forth are true. The director shall require a fingerprint record check of the applicant through the Washington state patrol criminal identification system and the federal bureau of investigation before issuance of a license. The results of the background investigation including criminal history information may be released to authorized department personnel as the director deems necessary. The department shall charge a license holder or license applicant a fee of fifty dollars for each background investigation conducted.

(7) An applicant who makes a false statement of a material fact on the application may be prosecuted for false swearing as defined by RCW 9A.72.040.

(8) A special fuel license may not 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 or her 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 may be waived: (a) For special fuel distributors who only deliver special fuel into the fuel tanks of marine vessels; (b) for dyed special fuel users; (c) for persons issued licenses under the international fuel tax agreement; or (d) for licensed special fuel distributors who, upon determination by the department, have sufficient resources, assets, other financial instruments, or other means to adequately make payments on the estimated monthly motor vehicle fuel tax payments, penalties, and interest arising out of this chapter. The department shall adopt rules to administer this section.

(9) The department may require a licensee to post a bond if the licensee, 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.

(10) The total amount of the bond or bonds required of any licensee shall be equivalent to three times the estimated monthly fuel tax, determined in such

manner as the department may deem proper: PROVIDED, That those licensees 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 one hundred thousand dollars.

(11) An application for a dyed special fuel user license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department deems necessary.

(12) An application for an international fuel tax agreement license must be made to the department. The application must be filed upon a form prescribed by the department and contain such information as the department may require. The department shall charge a fee of ten dollars per set of International Fuel Tax Agreement decals issued to each applicant or licensee. The department shall transmit the fee to the state treasurer for deposit in the motor vehicle fund.

NEW SECTION. Sec. 27. A new section is added to chapter 46.01 RCW to read as follows:

To ensure cost recovery for department of licensing services, the department of licensing shall submit a fee study to the transportation committees of the house of representatives and the senate by December 1, 2003, and on a biennial basis thereafter. Based on this fee study, the Washington state legislature will review and adjust fees accordingly.

NEW SECTION. Sec. 28. RCW 46.16.065 (Small trailer license fee—Conditions) and 2001 c 64 s 4, 1975 1st ex.s. c 118 s 4, 1961 ex.s. c 7 s 10, & 1961 c 12 s 46.16.065 are each repealed.

NEW SECTION. Sec. 29. Any fee increases provided in this act do not constitute new transportation revenue for the purposes of chapter 5, Laws of 2002.

NEW SECTION. Sec. 30. Sections 7, 9, and 28 of this act are effective with registrations that are due or will become due September 1, 2002, and thereafter. Section 26 of this act takes effect October 1, 2002. The remainder of this act takes effect July 1, 2002.

Passed the Senate March 13, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 353

[Substitute Senate Bill 6823]

BASIC EDUCATION CERTIFICATED INSTRUCTIONAL STAFF—SALARIES

AN ACT Relating to the formula for determining certificated instructional staff salaries for state-funded basic education certificated instructional staff; amending RCW 28A.150.410 and 28A.400.200; and providing an effective date.

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

Sec. 1. RCW 28A.150.410 and 1997 c 141 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260.

(2) ~~((The superintendent of public instruction shall calculate salary allocations for state funded basic education certificated instructional staff by determining the district average salary for basic education and special education instructional staff using the salary allocation schedule established pursuant to this section:))~~ Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the ~~((biennial))~~ omnibus appropriations act, or any replacement schedules and documents, unless:

- (a) The employee has a masters degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

Sec. 2. RCW 28A.400.200 and 1997 c 141 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to ~~((basic education and special education))~~ certificated instructional staff shall not exceed the district's average ~~((basic education and special education program))~~ certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for (~~(basic education and special education)~~) certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education (~~(and special education)~~) shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education (~~(and special education)~~) program(~~(s)~~).

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

NEW SECTION. **Sec. 3.** This act takes effect September 1, 2002.

Passed the Senate March 12, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 354

[Substitute House Bill 1268]

PERSONNEL SYSTEM REFORM ACT

AN ACT Relating to personnel: amending RCW 41.06.030, 41.06.150, 41.06.150, 41.06.022, 41.06.070, 41.06.110, 41.06.160, 41.06.167, 41.06.170, 41.06.186, 41.06.196, 41.06.270, 41.06.350, 41.06.400, 41.06.410, 41.06.450, 41.06.475, 41.06.490, 28B.12.060, 34.05.030, 34.12.020, 41.50.804, 43.06.425, 43.131.090, 49.46.010, 41.06.340, 13.40.320, 39.29.006, 41.04.385, 47.46.040, 72.09.100,

41.06.079, 41.06.152, 41.06.152, 41.06.500, 41.06.500, 43.23.010, 49.74.030, 49.74.030, 49.74.040, 49.74.040, and 41.56.201; reenacting and amending RCW 41.04.340; adding new sections to chapter 41.06 RCW; adding a new chapter to Title 41 RCW; creating new sections; repealing RCW 41.06.163, 41.06.165, 41.06.140, 41.50.804, 41.06.520, 41.06.380, 41.06.382, 41.56.023, 41.56.201, 28B.16.015, 41.64.010, 41.64.020, 41.64.030, 41.64.040, 41.64.050, 41.64.060, 41.64.070, 41.64.080, 41.64.090, 41.64.100, 41.64.110, 41.64.120, 41.64.130, 41.64.140, and 41.64.910; providing effective dates; and providing expiration dates.

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

**PART I
TITLE**

NEW SECTION. **Sec. 101.** SHORT TITLE. This act may be known and cited as the personnel system reform act of 2002.

**PART II
CIVIL SERVICE REFORM**

Sec. 201. RCW 41.06.030 and 1993 c 281 s 20 are each amended to read as follows:

A department of personnel(~~(governed by the Washington personnel resources board and administered by a director of personnel,))~~) is hereby established as a separate agency within the state government.

Sec. 202. RCW 41.06.150 and 1999 c 297 s 3 are each amended to read as follows:

The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The reduction, dismissal, suspension, or demotion of an employee;
- (2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Appointments;
- (5) Training and career development;
- (6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;
- (7) Transfers;
- (8) Sick leaves and vacations;
- (9) Hours of work;
- (10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) (~~Determination of appropriate bargaining units within any agency: PROVIDED, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;~~

~~— (12) Certification and decertification of exclusive bargaining representatives: PROVIDED, That))~~ Collective bargaining procedures:

(a) After certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

~~((13))~~ (b) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

~~((14))~~ (c) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

~~((15))~~ (d) A collective bargaining agreement entered into under this subsection before July 1, 2004, covering employees subject to sections 301 through

314 of this act, that expires after July 1, 2004, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2004, may not be renewed or extended beyond July 1, 2005. This subsection (11) does not apply to collective bargaining negotiations or collective bargaining agreements entered into under sections 301 through 314 of this act;

(12) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

~~(b) ((Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:~~

~~— (i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:~~

~~— (A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;~~

~~— (B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or~~

~~— (C) The implementation is a result of emergent conditions. Emergent conditions are defined as emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, which do not exceed \$250,000 of the moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.~~

~~— (ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.~~

~~— (iii) Adjustments made to the higher education hospital special pay plan are exempt from (b)(i) through (ii) of this subsection:~~

~~— (c)) Reclassifications, class studies, and salary adjustments ((to be implemented during the 1997-99 and subsequent fiscal biennia)) are governed by (a) of this subsection and RCW 41.06.152;~~

~~((16))~~ (13) Allocation and reallocation of positions within the classification plan;

~~((17))~~ (14) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

~~((18))~~ (15) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

~~((19))~~ (16) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

~~((20))~~ (17) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: **PROVIDED, HOWEVER,** That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: **PROVIDED FURTHER,** That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

~~((21))~~ (18) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

~~((22))~~ (19) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

~~((23))~~ (20) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

Sec. 203. RCW 41.06.150 and 2002 c . . . s 202 (section 202 of this act) are each amended to read as follows:

The ~~((board))~~ director shall adopt rules, consistent with the purposes and provisions of this chapter~~(, as now or hereafter amended;)~~ and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

~~(1) ((The reduction, dismissal, suspension, or demotion of an employee, —(2))~~ Certification of names for vacancies~~((, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified));~~

~~((3))~~ (2) Examinations for all positions in the competitive and noncompetitive service;

~~((4))~~ (3) Appointments;

~~((5))~~ Training and career development;

~~—(6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;~~

~~—(7) Transfers;~~

~~—(8) Sick leaves and vacations;~~

~~—(9) Hours of work;~~

~~—(10) Layoffs when necessary and subsequent reemployment, both according to seniority;~~

~~—(11) Collective bargaining procedures:~~

~~— (a) After certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: PROVIDED FURTHER, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: PROVIDED FURTHER, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: AND PROVIDED FURTHER, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;~~

~~— (b) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;~~

~~— (c) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;~~

~~— (d) A collective bargaining agreement entered into under this subsection before July 1, 2002, covering employees subject to sections 301 through 314 of this act, that expires after July 1, 2002, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2002, may not be renewed or extended beyond July 1, 2003. This subsection (11) does not apply to collective bargaining negotiations or collective bargaining agreements entered into under sections 301 through 314 of this act;~~

~~—(12))~~ (4) Adoption and revision of a comprehensive classification plan, in accordance with rules adopted by the board under section 205 of this act, for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position and allocation and reallocation of positions within the classification plan.

(a) The ~~((board))~~ director shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Reclassifications, class studies, and salary adjustments are governed by (a) of this subsection and RCW 41.06.152;

~~((13) Allocation and reallocation of positions within the classification plan;~~

~~—(14) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;~~

~~—(15) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;~~

~~—(16) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;~~

~~—(17) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has~~

~~received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;~~

~~---~~(18)) (5) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the ((board)) director may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

((19)) (6) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

((20)) (7) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The ((board)) director shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

NEW SECTION. Sec. 204. A new section is added to chapter 41.06 RCW to read as follows:

The director shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The reduction, dismissal, suspension, or demotion of an employee;
- (2) Training and career development;
- (3) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;
- (4) Transfers;
- (5) Promotional preferences;
- (6) Sick leaves and vacations;

- (7) Hours of work;
- (8) Layoffs when necessary and subsequent reemployment, except for the financial basis for layoffs;
- (9) The number of names to be certified for vacancies;
- (10) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units. The rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located. Such adoption and revision is subject to approval by the director of financial management in accordance with chapter 43.88 RCW;
- (11) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;
- (12) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;
- (13) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the director, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given. However, the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service. For the purposes of this section, "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

Rules adopted under this section by the director shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the director.

Rules adopted by the director under this section may be superseded by the provisions of a collective bargaining agreement negotiated under sections 301 through 314 of this act. The supersession of such rules shall only affect employees in the respective collective bargaining units.

NEW SECTION. **Sec. 205.** A new section is added to chapter 41.06 RCW to read as follows:

(1) The board shall conduct a comprehensive review of all rules in effect on the effective date of this section governing the classification, allocation, and reallocation of positions within the classified service. In conducting this review, the board shall consult with state agencies, institutions of higher education, employee organizations, and members of the general public. The department shall assist the board in the conduct of this review, which shall be completed by the board no later than July 1, 2003.

(2) By March 15, 2004, the board shall adopt new rules governing the classification, allocation, and reallocation of positions in the classified service. In adopting such rules, the board shall adhere to the following goals:

(a) To improve the effectiveness and efficiency of the delivery of services to the citizens of the state through the use of current personnel management processes and to promote a workplace where the overall focus is on the recipient of governmental services;

(b) To develop a simplified classification system that will substantially reduce the number of job classifications in the classified service and facilitate the most effective use of the state personnel resources;

(c) To develop a classification system to permit state agencies to respond flexibly to changing technologies, economic and social conditions, and the needs of its citizens;

(d) To value workplace diversity;

(e) To facilitate the reorganization and decentralization of governmental services; and

(f) To enhance mobility and career advancement opportunities.

(3) Rules adopted by the board under subsection (2) of this section shall permit an appointing authority and an employee organization representing classified employees of the appointing authority for collective bargaining purposes to make a joint request for the initiation of a classification study.

NEW SECTION. **Sec. 206.** A new section is added to chapter 41.06 RCW to read as follows:

In accordance with rules adopted by the board under section 205 of this act, the director shall, by January 1, 2005, begin to implement a new classification system for positions in the classified service. Any employee who believes that the director has incorrectly applied the rules of the board in determining a job

classification for a job held by that employee may appeal the director's decision to the board by filing a notice in writing within thirty days of the action from which the appeal is taken. Decisions of the board concerning such appeals are final and not subject to further appeal.

Sec. 207. RCW 41.06.022 and 1993 c 281 s 8 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or
- (5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

No employee who is a member of the Washington management service may be included in a collective bargaining unit established under sections 301 through 314 of this act.

NEW SECTION. Sec. 208. A new section is added to chapter 41.06 RCW to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on the effective date of this section is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to the effective date of this section, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1) and (4) through (6) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs

unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The joint legislative audit and review committee shall conduct a performance audit of the implementation of this section, including the adequacy of the appeals process in subsection (4)(d) of this section, and report to the legislature by January 1, 2007, on the results of the audit.

Sec. 209. RCW 41.06.070 and 1998 c 245 s 40 are each amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board,

commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington state apple advertising commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of any commission formed under chapter 15.66 RCW;

~~((t)) Officers and employees of the state wheat commission formed under chapter 15.63 RCW;~~

~~((u)) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;~~

~~((v)) (u) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;~~

~~((w)) (v) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;~~

~~((x)) (w) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;~~

~~((y)) (x) All employees of the marine employees' commission;~~

~~((z) Up to a total of five senior staff positions of the western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit. This subsection (1)(z) shall expire on June 30, 1997;~~

~~—(aa))~~ (y) Staff employed by the department of community, trade, and economic development to administer energy policy functions and manage energy site evaluation council activities under RCW 43.21F.045(2)(m);

~~((bb))~~ (z) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice-presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

~~(b) ((Student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board, employed by institutions of higher education and related boards;~~

~~—(c))~~ The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

~~((d))~~ (c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the ~~((Washington personnel resources board))~~ director of personnel may provide for

further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the (~~(Washington personnel resources board)~~) director of personnel stating the reasons for requesting such exemptions. The (~~(Washington personnel resources board)~~) director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the (~~(board)~~) director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the (~~(Washington personnel resources board)~~) director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (~~((v), (y), (z))~~) (u) and (x) and (2) of this section, shall be determined by the (~~(Washington personnel resources board)~~) director of personnel. (~~(However, beginning with changes proposed for the 1997-99 fiscal biennium.)~~) Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

Sec. 210. RCW 41.06.110 and 1993 c 281 s 25 are each amended to read as follows:

(1) There is hereby created a Washington personnel resources board composed of three members appointed by the governor, subject to confirmation by the senate. The members of the personnel board serving June 30, 1993, shall be the members of the Washington personnel resources board, and they shall complete their terms as under the personnel board. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Each member shall continue to hold office after the expiration of the member's term until a successor has been appointed. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed;

(2) Each member of the board shall be compensated in accordance with RCW 43.03.250. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chair and vice-chair from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board. The director of of personnel shall serve as secretary.

(4) The board may appoint and compensate hearing officers to hear and conduct appeals (~~until December 31, 1982~~). Such compensation shall be paid on a contractual basis for each hearing, in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto, as they relate to personal service contracts.

Sec. 211. RCW 41.06.160 and 1993 c 281 s 29 are each amended to read as follows:

In preparing classification and salary schedules as set forth in RCW 41.06.150 (~~as now or hereafter amended~~) the department of personnel shall give full consideration to prevailing rates in other public employment and in private employment in this state. For this purpose the department shall undertake comprehensive salary and fringe benefit surveys (~~with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. In the year prior to the convening of each one hundred five day regular session during which a comprehensive salary and fringe benefit survey is not conducted, the department shall plan and conduct a trend salary and fringe benefit survey. This survey shall measure average salary and fringe benefit movement for broad occupational groups which has occurred since the last comprehensive salary and fringe benefit survey was conducted. The results of each comprehensive and trend salary and fringe benefit survey shall be~~

~~completed and forwarded by September 30 with a recommended state salary schedule to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the standing committees for appropriations of the senate and house of representatives:~~

~~— In the case of comprehensive salary and fringe benefit surveys, the department shall furnish the following supplementary data in support of its recommended salary schedule:~~

~~— (1) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data;~~

~~— (2) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;~~

~~— (3) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the department of personnel with those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included;~~

~~— (4) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and~~

~~— (5) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility.~~

~~— It is the intention of the legislature that requests for funds to support recommendations for salary deviations from the prevailing rate survey data shall be kept to a minimum, and that the requests be fully documented when forwarded by the department of personnel).~~

Salary and fringe benefit survey information collected from private employers which identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

~~((The first comprehensive salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1986. The first trend salary and fringe benefit survey required by this section shall be completed and forwarded to the governor and the director of financial management by September 30, 1988.))~~

Sec. 212. RCW 41.06.167 and 1991 c 196 s 1 are each amended to read as follows:

The department of personnel shall undertake comprehensive compensation surveys for officers and entry-level officer candidates of the Washington state patrol, with such surveys to be conducted in the year prior to the convening of every other one hundred five day regular session of the state legislature. ~~((In the year prior to the convening of each one hundred five day regular session during which a comprehensive compensation survey is not conducted, the department shall conduct a trend compensation survey. This survey shall measure average compensation movement which has occurred since the last comprehensive compensation survey was conducted. The results of each comprehensive and trend survey shall be completed and forwarded by September 30th, after review and preparation of recommendations by the chief of the Washington state patrol, to the governor and director of financial management for their use in preparing budgets to be submitted to the succeeding legislature. A copy of the data and supporting documentation shall be furnished by the department of personnel to the legislative transportation committee and the standing committees for appropriations of the senate and house of representatives. The office of financial management shall analyze the survey results and conduct investigations which may be necessary to arbitrate differences between interested parties regarding the accuracy of collected survey data and the use of such data for salary adjustment.~~

~~— Surveys conducted by the department of personnel for the Washington state patrol shall be undertaken in a manner consistent with statistically accurate sampling techniques, including comparisons of medians, base ranges, and weighted averages of salaries. The surveys shall compare competitive labor markets of law enforcement officers. This service performed by the department of personnel shall be on a reimbursable basis in accordance with the provisions of RCW 41.06.080.~~

~~— A comprehensive compensation survey plan and the recommendations of the chief of the Washington state patrol shall be submitted jointly by the department of personnel and the Washington state patrol to the director of financial management, the legislative transportation committee, the committee on ways and means of the senate, and the committee on appropriations of the house of representatives six months before the beginning of each periodic survey.))~~ Salary and fringe benefit survey information collected from private employers which

identifies a specific employer with the salary and fringe benefit rates which that employer pays to its employees shall not be subject to public disclosure under chapter 42.17 RCW.

Sec. 213. RCW 41.06.170 and 1993 c 281 s 31 are each amended to read as follows:

(1) The ~~((board or))~~ director, in the adoption of rules governing suspensions for cause, shall not authorize an appointing authority to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The ~~((board or))~~ director shall require that the appointing authority give written notice to the employee not later than one day after the suspension takes effect, stating the reasons for and the duration thereof.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his or her probationary period of service as provided by the rules of the ~~((board))~~ director, or any employee who is adversely affected by a violation of the state civil service law, chapter 41.06 RCW, or rules adopted under it, shall have the right to appeal ~~((to the personnel appeals board created by RCW 41.64.010)), either individually or through his or her authorized representative,~~ not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005. The employee shall be furnished with specified charges in writing when a reduction, dismissal, suspension, or demotion action is taken. Such appeal shall be in writing. Decisions of the Washington personnel resources board on appeals filed after June 30, 2005, shall be final and not subject to further appeal.

(3) Any employee whose position has been exempted after July 1, 1993, shall have the right to appeal ~~((to the personnel appeals board created by RCW 41.64.010)), either individually or through his or her authorized representative,~~ not later than thirty days after the effective date of such action to the personnel appeals board through June 30, 2005, and to the Washington personnel resources board after June 30, 2005.

(4) An employee incumbent in a position at the time of its allocation or reallocation, or the agency utilizing the position, may appeal the allocation or reallocation to the personnel appeals board ~~((created by RCW 41.64.010))~~ through December 31, 2005, and to the Washington personnel resources board after December 31, 2005. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

(5) Subsections (1) and (2) of this section do not apply to any employee who is subject to the provisions of a collective bargaining agreement negotiated under sections 301 through 314 of this act.

NEW SECTION. Sec. 214. The transfer of the powers, duties, and functions of the personnel appeals board to the personnel resources board under section 233 of this act and the transfer of jurisdiction for appeals filed under section 213, chapter . . . , Laws of 2002 (section 213 of this act) after June 30, 2005, shall not

affect the right of an appellant to have an appeal filed on or before June 30, 2005, resolved by the personnel appeals board in accordance with the authorities, rules, and procedures that were established under chapter 41.64 RCW as it existed before the effective date of this section.

Sec. 215. RCW 41.06.186 and 1993 c 281 s 32 are each amended to read as follows:

The (~~Washington personnel resources board~~) director shall adopt rules designed to terminate the state employment of any employee whose performance is so inadequate as to warrant termination.

Sec. 216. RCW 41.06.196 and 1993 c 281 s 33 are each amended to read as follows:

The (~~Washington personnel resources board~~) director shall adopt rules designed to remove from supervisory positions those supervisors who in violation of the rules adopted under RCW 41.06.186 have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

Sec. 217. RCW 41.06.270 and 1979 c 151 s 61 are each amended to read as follows:

A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations and orders issued hereunder. The (~~board and the~~) directors of personnel and financial management shall jointly establish procedures for the certification of payrolls.

Sec. 218. RCW 41.06.350 and 1993 c 281 s 36 are each amended to read as follows:

The (~~Washington personnel resources board~~) director is authorized to receive federal funds now available or hereafter made available for the assistance and improvement of public personnel administration, which may be expended in addition to the department of personnel service fund established by RCW 41.06.280.

Sec. 219. RCW 41.06.400 and 1980 c 118 s 4 are each amended to read as follows:

(1) In addition to other powers and duties specified in this chapter, the (~~board~~) director shall, by rule, prescribe the purpose and minimum standards for training and career development programs and, in so doing, regularly consult with and consider the needs of individual agencies and employees.

(2) In addition to other powers and duties specified in this chapter, the director shall:

(a) Provide for the evaluation of training and career development programs and plans of agencies (~~based on minimum standards established by the board~~). The director shall report the results of such evaluations to the agency which is the subject of the evaluation;

(b) Provide training and career development programs which may be conducted more efficiently and economically on an interagency basis;

(c) Promote interagency sharing of resources for training and career development;

(d) Monitor and review the impact of training and career development programs to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. ~~((The director shall report to the board the impact of training and career development programs on the fulfillment of such responsibilities.))~~

(3) At an agency's request, the director may provide training and career development programs for an agency's internal use which may be conducted more efficiently and economically by the department of personnel.

Sec. 220. RCW 41.06.410 and 1980 c 118 s 5 are each amended to read as follows:

Each agency subject to the provisions of this chapter shall:

(1) Prepare an employee training and career development plan which shall at least meet minimum standards established by the ~~((board))~~ director. A copy of such plan shall be submitted to the director for purposes of administering the provisions of RCW 41.06.400(2);

(2) Provide for training and career development for its employees in accordance with the agency plan;

(3) Report on its training and career development program operations and costs to the director in accordance with reporting procedures adopted by the ~~((board))~~ director;

(4) Budget for training and career development in accordance with procedures of the office of financial management.

Sec. 221. RCW 41.06.450 and 1993 c 281 s 37 are each amended to read as follows:

(1) ~~((By January 1, 1983, the Washington personnel resources board))~~ The director shall adopt rules applicable to each agency to ensure that information relating to employee misconduct or alleged misconduct is destroyed or maintained as follows:

(a) All such information determined to be false and all such information in situations where the employee has been fully exonerated of wrongdoing, shall be promptly destroyed;

(b) All such information having no reasonable bearing on the employee's job performance or on the efficient and effective management of the agency, shall be promptly destroyed;

(c) All other information shall be retained only so long as it has a reasonable bearing on the employee's job performance or on the efficient and effective management of the agency.

(2) Notwithstanding subsection (1) of this section, an agency may retain information relating to employee misconduct or alleged misconduct if:

- (a) The employee requests that the information be retained; or
- (b) The information is related to pending legal action or legal action may be reasonably expected to result.

(3) In adopting rules under this section, the (~~Washington personnel resources board~~) director shall consult with the public disclosure commission to ensure that the public policy of the state, as expressed in chapter 42.17 RCW, is adequately protected.

Sec. 222. RCW 41.06.475 and 1993 c 281 s 38 are each amended to read as follows:

The (~~Washington personnel resources board~~) director shall adopt rules, in cooperation with the secretary of social and health services, for the background investigation of persons being considered for state employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons.

Sec. 223. RCW 41.06.490 and 1990 c 204 s 3 are each amended to read as follows:

(1) In addition to the rules adopted under RCW 41.06.150, the (~~board~~) director shall adopt rules establishing a state employee return-to-work program. The program shall, at a minimum:

(a) Direct each agency to adopt a return-to-work policy. The program shall allow each agency program to take into consideration the special nature of employment in the agency;

(b) Provide for eligibility in the return-to-work program, for a minimum of two years from the date the temporary disability commenced, for any permanent employee who is receiving compensation under RCW 51.32.090 and who is, by reason of his or her temporary disability, unable to return to his or her previous work, but who is physically capable of carrying out work of a lighter or modified nature;

(c) Allow opportunity for return-to-work statewide when appropriate job classifications are not available in the agency that is the appointing authority at the time of injury;

(d) Require each agency to name an agency representative responsible for coordinating the return-to-work program of the agency;

(e) Provide that applicants receiving appointments for classified service receive an explanation of the return-to-work policy;

(f) Require training of supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; and

(g) Coordinate participation of applicable employee assistance programs, as appropriate.

(2) The agency full-time equivalents necessary to implement the return-to-work program established under this section shall be used only for the purposes of

the return-to-work program and the net increase in full-time equivalents shall be temporary.

Sec. 224. RCW 28B.12.060 and 1994 c 130 s 6 are each amended to read as follows:

The higher education coordinating board shall adopt rules as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 34.05 RCW, the state higher education administrative procedure act. Such rules shall include provisions designed to make employment under the work-study program reasonably available, to the extent of available funds, to all eligible students in eligible post-secondary institutions in need thereof. The rules shall include:

(1) Providing work under the state work-study program that will not result in the displacement of employed workers or impair existing contracts for services;

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology;

(3) Placing priority on providing:

(a) Work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.012 and 28B.15.013 except resident students defined in RCW 28B.15.012(2)(~~(e)~~) (f);

(b) Job placements in fields related to each student's academic or vocational pursuits, with an emphasis on off-campus job placements whenever appropriate; and

(c) Off-campus community service placements;

(4) Provisions to assure that in the state institutions of higher education, utilization of this work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 41.06 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the (~~Washington personnel resources board's~~) director of personnel's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service unless the overall scope and responsibilities of the position indicate a higher level; and

(5) Provisions to encourage job placements in occupations that meet Washington's economic development goals, especially those in international trade and international relations. The board shall permit appropriate job placements in other states and other countries.

Sec. 225. RCW 34.05.030 and 1994 c 39 s 1 are each amended to read as follows:

(1) This chapter shall not apply to:

(a) The state militia, or

(b) The board of 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 34.05.410 through 34.05.598 shall not apply:

(a) To adjudicative proceedings of the board of industrial insurance appeals except as provided in RCW 7.68.110 and 51.48.131;

(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;

(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 Washington personnel resources board((;)) or the director of personnel(~~(; or the personnel appeals board)~~); or

(e) To the extent they are inconsistent with any provisions of chapter 43.43 RCW.

(3) Unless a party makes an election for a formal hearing pursuant to RCW 82.03.140 or 82.03.190, RCW 34.05.410 through 34.05.598 do not apply to a review hearing conducted by the board of tax appeals.

(4) The rule-making provisions of this chapter do not apply to reimbursement unit values, fee schedules, arithmetic conversion factors, and similar arithmetic factors used to determine payment rates that apply to goods and services purchased under contract for clients eligible under chapter 74.09 RCW.

(5) 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. 226. RCW 34.12.020 and 1995 c 331 s 1 are each amended to read as follows:

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

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means an adjudicative proceeding within the meaning of RCW 34.05.010(1) conducted by a state agency under RCW 34.05.413 through 34.05.476.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to conduct adjudicative proceedings, except those in the legislative or judicial branches, the growth management hearings boards, the utilities and transportation commission, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the Washington personnel resources board, the public employment relations commission, (~~the personnel appeals board;~~) and the board of tax appeals.

Sec. 227. RCW 41.04.340 and 1998 c 254 s 1 and 1998 c 116 s 2 are each reenacted and amended to read as follows:

(1) An attendance incentive program is established for all eligible employees. As used in this section the term "eligible employee" means any employee of the state, other than eligible employees of the community and technical colleges and the state board for community and technical colleges identified in RCW 28B.50.553, and teaching and research faculty at the state and regional universities and The Evergreen State College, entitled to accumulate sick leave and for whom accurate sick leave records have been maintained. No employee may receive compensation under this section for any portion of sick leave accumulated at a rate in excess of one day per month. The state and regional universities and The Evergreen State College shall maintain complete and accurate sick leave records for all teaching and research faculty.

(2) In January of the year following any year in which a minimum of sixty days of sick leave is accrued, and each January thereafter, any eligible employee may receive remuneration for unused sick leave accumulated in the previous year at a rate equal to one day's monetary compensation of the employee for each four full days of accrued sick leave in excess of sixty days. Sick leave for which compensation has been received shall be deducted from accrued sick leave at the rate of four days for every one day's monetary compensation.

(3) At the time of separation from state service due to retirement or death, an eligible employee or the employee's estate may elect to receive remuneration at a rate equal to one day's current monetary compensation of the employee for each four full days of accrued sick leave.

(4) Remuneration or benefits received under this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

(5) Except as provided in subsections (7) through (9) of this section for employees not covered by chapter 41.06 RCW, this section shall be administered, and rules shall be adopted to carry out its purposes, by the (~~Washington personnel resources board~~) director of personnel for persons subject to chapter 41.06 RCW:

PROVIDED, That determination of classes of eligible employees shall be subject to approval by the office of financial management.

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

(7) In lieu of remuneration for unused sick leave at retirement as provided in subsection (3) of this section, an agency head or designee may with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses. This plan shall be implemented only after consultation with affected groups of employees. For eligible employees covered by chapter 41.06 RCW, procedures for the implementation of these plans shall be adopted by the (~~Washington personnel resources board~~) director of personnel. For eligible employees exempt from chapter 41.06 RCW, and classified employees who have opted out of coverage of chapter 41.06 RCW as provided in RCW 41.56.201, implementation procedures shall be adopted by an agency head having jurisdiction over the employees.

(8) Implementing procedures adopted by the (~~Washington personnel resources board~~) director of personnel or agency heads shall require that each medical expense plan authorized by subsection (7) of this section apply to all eligible employees in any one of the following groups: (a) Employees in an agency; (b) employees in a major organizational subdivision of an agency; (c) employees at a major operating location of an agency; (d) exempt employees under the jurisdiction of an elected or appointed Washington state executive; (e) employees of the Washington state senate; (f) employees of the Washington state house of representatives; (g) classified employees in a bargaining unit established by the (~~Washington personnel resources board~~) director of personnel; or (h) other group of employees defined by an agency head that is not designed to provide an individual-employee choice regarding participation in a medical expense plan. However, medical expense plans for eligible employees in any of the groups under (a) through (h) of this subsection who are covered by a collective bargaining agreement shall be implemented only by written agreement with the bargaining unit's exclusive representative and a separate medical expense plan may be provided for unrepresented employees.

(9) Medical expense plans authorized by subsection (7) of this section must require as a condition of participation in the plan that employees in the group affected by the plan sign an agreement with the employer. The agreement must include a provision to hold the employer harmless should the United States government find that the employer or the employee is in debt to the United States as a result of the employee not paying income taxes due on the equivalent funds placed into the plan, or as a result of the employer not withholding or deducting a tax, assessment, or other payment on the funds as required by federal law. The agreement must also include a provision that requires an eligible employee to forfeit remuneration under subsection (3) of this section if the employee belongs

to a group that has been designated to participate in the medical expense plan permitted under this section and the employee refuses to execute the required agreement.

Sec. 228. RCW 41.50.804 and 1993 c 281 s 40 are each amended to read as follows:

Nothing contained in this chapter shall be construed to alter any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the (~~Washington personnel resources board~~) public employment relations commission as provided by law.

Sec. 229. RCW 43.06.425 and 1993 c 281 s 48 are each amended to read as follows:

The (~~Washington personnel resources board~~) director of personnel shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees.

Sec. 230. RCW 43.131.090 and 2000 c 189 s 7 are each amended to read as follows:

Unless the legislature specifies a shorter period of time, a terminated entity shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the entity shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated entities classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the (~~Washington personnel resources board~~) director of personnel pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated entity shall be delivered to the custody of the entity assuming the responsibilities of the terminated entity or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist

and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated entity shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated entity shall be repealed, without further action by the entity, at the end of the period provided in this section, unless assumed and reaffirmed by the entity assuming the related legal responsibilities of the terminated entity;

(5) All contractual rights and duties of an entity shall be assigned or delegated to the entity assuming the responsibilities of the terminated entity, or if there is none to such entity as the governor shall direct.

Sec. 231. RCW 49.46.010 and 1997 c 203 s 3 are each amended to read as follows:

As used in this chapter:

(1) "Director" means the director of labor and industries;

(2) "Wage" means compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director;

(3) "Employ" includes to permit to work;

(4) "Employer" includes any individual, partnership, association, corporation, business trust, or any person or group of persons acting directly or indirectly in the interest of an employer in relation to an employee;

(5) "Employee" includes any individual employed by an employer but shall not include:

(a) Any individual (i) employed as a hand harvest laborer and paid on a piece rate basis in an operation which has been, and is generally and customarily recognized as having been, paid on a piece rate basis in the region of employment; (ii) who commutes daily from his or her permanent residence to the farm on which he or she is employed; and (iii) who has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(b) Any individual employed in casual labor in or about a private home, unless performed in the course of the employer's trade, business, or profession;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman as those terms are defined and delimited by rules of the director. However, those terms shall be defined and delimited by the (~~Washington personnel resources board~~) director of personnel pursuant to chapter 41.06 RCW for employees employed under the director of personnel's jurisdiction;

(d) Any individual engaged in the activities of an educational, charitable, religious, state or local governmental body or agency, or nonprofit organization where the employer-employee relationship does not in fact exist or where the

services are rendered to such organizations gratuitously. If the individual receives reimbursement in lieu of compensation for normally incurred out-of-pocket expenses or receives a nominal amount of compensation per unit of voluntary service rendered, an employer-employee relationship is deemed not to exist for the purpose of this section or for purposes of membership or qualification in any state, local government or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(e) Any individual employed full time by any state or local governmental body or agency who provides voluntary services but only with regard to the provision of the voluntary services. The voluntary services and any compensation therefor shall not affect or add to qualification, entitlement or benefit rights under any state, local government, or publicly supported retirement system other than that provided under chapter 41.24 RCW;

(f) Any newspaper vendor or carrier;

(g) Any carrier subject to regulation by Part I of the Interstate Commerce Act;

(h) Any individual engaged in forest protection and fire prevention activities;

(i) Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States;

(j) Any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties;

(k) Any resident, inmate, or patient of a state, county, or municipal correctional, detention, treatment or rehabilitative institution;

(l) Any individual who holds a public elective or appointive office of the state, any county, city, town, municipal corporation or quasi municipal corporation, political subdivision, or any instrumentality thereof, or any employee of the state legislature;

(m) All vessel operating crews of the Washington state ferries operated by the department of transportation;

(n) Any individual employed as a seaman on a vessel other than an American vessel;

(6) "Occupation" means any occupation, service, trade, business, industry, or branch or group of industries or employment or class of employment in which employees are gainfully employed;

(7) "Retail or service establishment" means an establishment seventy-five percent of whose annual dollar volume of sales of goods or services, or both, is not for resale and is recognized as retail sales or services in the particular industry.

Sec. 232. RCW 41.06.340 and 1993 c 281 s 35 are each amended to read as follows:

(1) With respect to collective bargaining as authorized by sections 301 through 314 of this act, the public employment relations commission created by chapter 41.58 RCW shall have authority to adopt rules, on and after the effective date of this section, relating to determination of appropriate bargaining units within any agency. In making such determination the commission shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees. The public employment relations commission created in chapter 41.58 RCW shall adopt rules and make determinations relating to the certification and decertification of exclusive bargaining representatives.

(2) Each and every provision of RCW 41.56.140 through ~~((41.56.190))~~ 41.56.160 shall be applicable to this chapter as it relates to state civil service employees ~~((and the Washington personnel resources board, or its designee, whose final decision shall be appealable to the Washington personnel resources board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190)).~~

(3) A collective bargaining agreement entered into under RCW 41.06.150 before July 1, 2004, covering employees subject to sections 301 through 314 of this act that expires after July 1, 2004, shall remain in full force during its duration, or until superseded by a collective bargaining agreement entered into by the parties under sections 301 through 314 of this act. However, an agreement entered into before July 1, 2004, may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later.

NEW SECTION. Sec. 233. A new section is added to chapter 41.06 RCW to read as follows:

(1) The personnel appeals board is hereby abolished and its powers, duties, and functions are hereby transferred to the Washington personnel resources board. All references to the executive secretary or the personnel appeals board in the Revised Code of Washington shall be construed to mean the director of the department of personnel or the Washington personnel resources board.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the personnel appeals board shall be delivered to the custody of the department of personnel. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the personnel appeals board shall be made available to the department of personnel. All funds, credits, leases, or other assets held by the personnel appeals board shall be assigned to the department of personnel.

(b) Any appropriations made to the personnel appeals board shall, on the effective date of this section, be transferred and credited to the department of personnel.

(c) If 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.

(3) All employees of the personnel appeals board are transferred to the jurisdiction of the department of personnel. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of personnel to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the personnel appeals board shall be continued and acted upon by the Washington personnel resources board. All existing contracts and obligations shall remain in full force and shall be performed by the department of personnel.

(5) The transfer of the powers, duties, functions, and personnel of the personnel appeals board shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

Sec. 234. RCW 13.40.320 and 2001 c 137 s 1 are each amended to read as follows:

(1) The department of social and health services shall establish a medium security juvenile offender basic training camp program. This program for juvenile offenders serving a term of confinement under the supervision of the department is exempt from the licensing requirements of chapter 74.15 RCW.

(2) The department may contract under this chapter with private companies, the national guard, or other federal, state, or local agencies to operate the juvenile offender basic training camp(~~(; notwithstanding the provisions of RCW 41.06.380)~~).

(3) The juvenile offender basic training camp shall be a structured and regimented model emphasizing the building up of an offender's self-esteem, confidence, and discipline. The juvenile offender basic training camp program shall provide participants with basic education, prevocational training, work-based learning, work experience, work ethic skills, conflict resolution counseling, substance abuse intervention, anger management counseling, and structured intensive physical training. The juvenile offender basic training camp program shall have a curriculum training and work schedule that incorporates a balanced assignment of these or other rehabilitation and training components for no less than sixteen hours per day, six days a week.

The department shall develop standards for the safe and effective operation of the juvenile offender basic training camp program, for an offender's successful program completion, and for the continued after-care supervision of offenders who have successfully completed the program.

(4) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of not more than sixty-five weeks. Violent and sex offenders shall not be eligible for the juvenile offender basic training camp program.

(5) If the court determines that the offender is eligible for the juvenile offender basic training camp option, the court may recommend that the department place the offender in the program. The department shall evaluate the offender and may place the offender in the program. The evaluation shall include, at a minimum, a risk assessment developed by the department and designed to determine the offender's suitability for the program. No juvenile who is assessed as a high risk offender or suffers from any mental or physical problems that could endanger his or her health or drastically affect his or her performance in the program shall be admitted to or retained in the juvenile offender basic training camp program.

(6) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend one hundred twenty days of their disposition in a juvenile offender basic training camp. This period may be extended for up to forty days by the secretary if a juvenile offender requires additional time to successfully complete the basic training camp program. If the juvenile offender's activities while in the juvenile offender basic training camp are so disruptive to the juvenile offender basic training camp program, as determined by the secretary according to standards developed by the department, as to result in the removal of the juvenile offender from the juvenile offender basic training camp program, or if the offender cannot complete the juvenile offender basic training camp program due to medical problems, the secretary shall require that the offender be committed to a juvenile institution to serve the entire remainder of his or her disposition, less the amount of time already served in the juvenile offender basic training camp program.

(7) All offenders who successfully graduate from the juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a juvenile rehabilitation administration intensive aftercare program in the local community. Violation of the conditions of parole is subject to sanctions specified in RCW 13.40.210(4). The program shall provide for the needs of the offender based on his or her progress in the aftercare program as indicated by ongoing assessment of those needs and progress. The intensive aftercare program shall monitor postprogram juvenile offenders and assist them to successfully reintegrate into the community. In addition, the program shall develop a process for closely monitoring and assessing public safety risks. The intensive aftercare program shall be designed and funded by the department of social and health services.

(8) The department shall also develop and maintain a data base to measure recidivism rates specific to this incarceration program. The data base shall

maintain data on all juvenile offenders who complete the juvenile offender basic training camp program for a period of two years after they have completed the program. The data base shall also maintain data on the criminal activity, educational progress, and employment activities of all juvenile offenders who participated in the program.

Sec. 235. RCW 39.29.006 and 1998 c 101 s 2 are each amended to read as follows:

As used in this chapter:

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, and educational, correctional, and other types of institutions.

(2) "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

(3) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria which may include such factors as the consultant's fees or costs, ability, capacity, experience, reputation, responsiveness to time limitations, responsiveness to solicitation requirements, quality of previous performance, and compliance with statutes and rules relating to contracts or services.

(4) "Consultant" means an independent individual or firm contracting with an agency to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the agency except as to the result of the work. The agency monitors progress under the contract and authorizes payment.

(5) "Emergency" means a set of unforeseen circumstances beyond the control of the agency that either:

(a) Present a real, immediate threat to the proper performance of essential functions; or

(b) May result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken.

(6) "Evidence of competition" means documentation demonstrating that the agency has solicited responses from multiple firms in selecting a consultant.

(7) "Personal service" means professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement. This term does not include purchased services as defined under subsection (9) of this section. This term does include client services.

(8) "Personal service contract" means an agreement, or any amendment thereto, with a consultant for the rendering of personal services to the state which is consistent with (~~RCW 41.06.380~~) section 208 of this act.

(9) "Purchased services" means services provided by a vendor to accomplish routine, continuing and necessary functions. This term includes, but is not limited

to, services acquired under RCW 43.19.190 or 43.105.041 for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.

(10) "Sole source" means a consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on either the uniqueness of the service or sole availability at the location required.

Sec. 236. RCW 41.04.385 and 1993 c 194 s 5 are each amended to read as follows:

The legislature finds that (1) demographic, economic, and social trends underlie a critical and increasing demand for child care in the state of Washington; (2) working parents and their children benefit when the employees' child care needs have been resolved; (3) the state of Washington should serve as a model employer by creating a supportive atmosphere, to the extent feasible, in which its employees may meet their child care needs; and (4) the state of Washington should encourage the development of partnerships between state agencies, state employees, state employee labor organizations, and private employers to expand the availability of affordable quality child care. The legislature finds further that resolving employee child care concerns not only benefits the employees and their children, but may benefit the employer by reducing absenteeism, increasing employee productivity, improving morale, and enhancing the employer's position in recruiting and retaining employees. Therefore, the legislature declares that it is the policy of the state of Washington to assist state employees by creating a supportive atmosphere in which they may meet their child care needs. Policies and procedures for state agencies to address employee child care needs will be the responsibility of the director of personnel in consultation with the child care coordinating committee, as provided in RCW 74.13.090, and state employee representatives ((as provided under RCW 41.06.140)).

***Sec. 237.** RCW 47.46.040 and 2001 c 64 s 14 are each amended to read as follows:

(1) All projects designed, constructed, and operated under this authority must comply with all applicable rules and statutes in existence at the time the agreement is executed, including but not limited to the following provisions: Chapter 39.12 RCW, this title, ((RCW 41.06.380)) section 208 of this act, chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part 21.

(2) The secretary or a designee shall consult with legal, financial, and other experts within and outside state government in the negotiation and development of the agreements.

(3) Agreements shall provide for private ownership of the projects during the construction period. After completion and final acceptance of each project or discrete segment thereof, the agreement shall provide for state ownership of the transportation systems and facilities and lease to the private entity unless the

state elects to provide for ownership of the facility by the private entity during the term of the agreement.

The state shall lease each of the demonstration projects, or applicable project segments, to the private entities for operating purposes for up to fifty years.

(4) The department may exercise any power possessed by it to facilitate the development, construction, financing operation, and maintenance of transportation projects under this chapter. Agreements for maintenance services entered into under this section shall provide for full reimbursement for services rendered by the department or other state agencies. Agreements for police services for projects, involving state highway routes, developed under agreements shall be entered into with the Washington state patrol. The agreement for police services shall provide that the state patrol will be reimbursed for costs on a comparable basis with the costs incurred for comparable service on other state highway routes. The department may provide services for which it is reimbursed, including but not limited to preliminary planning, environmental certification, and preliminary design of the demonstration projects.

(5) The plans and specifications for each project constructed under this section shall comply with the department's standards for state projects. A facility constructed by and leased to a private entity is deemed to be a part of the state highway system for purposes of identification, maintenance, and enforcement of traffic laws and for the purposes of applicable sections of this title. Upon reversion of the facility to the state, the project must meet all applicable state standards. Agreements shall address responsibility for reconstruction or renovations that are required in order for a facility to meet all applicable state standards upon reversion of the facility to the state.

(6) For the purpose of facilitating these projects and to assist the private entity in the financing, development, construction, and operation of the transportation systems and facilities, the agreements may include provisions for the department to exercise its authority, including the lease of facilities, rights of way, and airspace, exercise of the power of eminent domain, granting of development rights and opportunities, granting of necessary easements and rights of access, issuance of permits and other authorizations, protection from competition, remedies in the event of default of either of the parties, granting of contractual and real property rights, liability during construction and the term of the lease, authority to negotiate acquisition of rights of way in excess of appraised value, and any other provision deemed necessary by the secretary.

(7) The agreements entered into under this section may include provisions authorizing the state to grant necessary easements and lease to a private entity existing rights of way or rights of way subsequently acquired with public or private financing. The agreements may also include provisions to lease to the entity airspace above or below the right of way associated or to be associated with the private entity's transportation facility. In consideration for the reversion

rights in these privately constructed facilities, the department may negotiate a charge for the lease of airspace rights during the term of the agreement for a period not to exceed fifty years. If, after the expiration of this period, the department continues to lease these airspace rights to the private entity, it shall do so only at fair market value. The agreement may also provide the private entity the right of first refusal to undertake projects utilizing airspace owned by the state in the vicinity of the public-private project.

(8) Agreements under this section may include any contractual provision that is necessary to protect the project revenues required to repay the costs incurred to study, plan, design, finance, acquire, build, install, operate, enforce laws, and maintain toll highways, bridges, and tunnels and which will not unreasonably inhibit or prohibit the development of additional public transportation systems and facilities. Agreements under this section must secure and maintain liability insurance coverage in amounts appropriate to protect the project's viability and may address state indemnification of the private entity for design and construction liability where the state has approved relevant design and construction plans.

(9) Agreements shall include a process that provides for public involvement in decision making with respect to the development of the projects.

(10)(a) In carrying out the public involvement process required in subsection (9) of this section, the private entity shall proactively seek public participation through a process appropriate to the characteristics of the project that assesses and demonstrates public support among: Users of the project, residents of communities in the vicinity of the project, and residents of communities impacted by the project.

(b) The private entity shall conduct a comprehensive public involvement process that provides, periodically throughout the development and implementation of the project, users and residents of communities in the affected project area an opportunity to comment upon key issues regarding the project including, but not limited to: (i) Alternative sizes and scopes; (ii) design; (iii) environmental assessment; (iv) right of way and access plans; (v) traffic impacts; (vi) tolling or user fee strategies and tolling or user fee ranges; (vii) project cost; (viii) construction impacts; (ix) facility operation; and (x) any other salient characteristics.

(c) If the affected project area has not been defined, the private entity shall define the affected project area by conducting, at a minimum: (i) A comparison of the estimated percentage of residents of communities in the vicinity of the project and in other communities impacted by the project who could be subject to tolls or user fees and the estimated percentage of other users and transient traffic that could be subject to tolls or user fees; (ii) an analysis of the anticipated traffic diversion patterns; (iii) an analysis of the potential economic impact resulting from proposed toll rates or user fee rates imposed on residents, commercial traffic, and commercial entities in communities in the vicinity of and

impacted by the project; (iv) an analysis of the economic impact of tolls or user fees on the price of goods and services generally; and (v) an analysis of the relationship of the project to state transportation needs and benefits.

The agreement may require an advisory vote by users of and residents in the affected project area.

(d) In seeking public participation, the private entity shall establish a local involvement committee or committees comprised of residents of the affected project area, individuals who represent cities and counties in the affected project area, organizations formed to support or oppose the project, if such organizations exist, and users of the project. The private entity shall, at a minimum, establish a committee as required under the specifications of RCW 47.46.030(6)(b) (ii) and (iii) and appointments to such committee shall be made no later than thirty days after the project area is defined.

(e) Local involvement committees shall act in an advisory capacity to the department and the private entity on all issues related to the development and implementation of the public involvement process established under this section.

(f) The department and the private entity shall provide the legislative transportation committee and local involvement committees with progress reports on the status of the public involvement process including the results of an advisory vote, if any occurs.

(II) Nothing in this chapter limits the right of the secretary and his or her agents to render such advice and to make such recommendations as they deem to be in the best interests of the state and the public.

**Sec. 237 was vetoed. See message at end of chapter.*

Sec. 238. RCW 72.09.100 and 1995 1st sp.s. c 19 s 33 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS 1: FREE VENTURE INDUSTRIES. The employer model industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The customer model industries in this class shall be operated and managed by the department to provide Washington state manufacturers or businesses with products or services currently produced or provided by out-of-state or foreign suppliers. The correctional industries board of directors shall review these proposed industries before the department contracts to provide such products or services. The review shall include an analysis of the potential impact of the

proposed products and services on the Washington state business community and labor market.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located, as determined by the director of correctional industries. If the director cannot reasonably determine the comparable wage, then the pay shall not be less than the federal minimum wage.

An inmate who is employed in the class I program of correctional industries shall not be eligible for unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW until released on parole or discharged.

(2) **CLASS II: TAX REDUCTION INDUSTRIES.** Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to public agencies, to nonprofit organizations, and to private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization. Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons. Correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors. The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus byproducts and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the wage

paid for work of a similar nature in the locality in which the industry is located and which is approved by the director of correctional industries.

Subject to approval of the correctional industries board, provisions of (~~RCW 41.06.380 prohibiting contracting out work performed by classified employees~~) section 208 of this act shall not apply to contracts with Washington state businesses entered into by the department of corrections through class II industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) CLASS IV: COMMUNITY WORK INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the wage paid for work of a similar nature in the locality in which the industry is located.

(5) CLASS V: COMMUNITY SERVICE PROGRAMS. Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an inmate, placed on community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency.

To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

Sec. 239. RCW 41.06.079 and 1993 c 281 s 23 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of transportation to the secretary, a deputy secretary, an administrative assistant to the secretary, if any, one assistant secretary for each division designated pursuant to RCW 47.01.081, one confidential secretary for each of the above-named officers, up to six transportation district administrators and one confidential secretary for each district administrator, up to six additional new administrators or confidential secretaries designated by the secretary of the department of transportation and approved by the Washington personnel resources board pursuant to the provisions of RCW 41.06.070(~~((1)-(z))~~), the legislative liaison for the department, the state construction engineer, the state aid engineer, the personnel manager, the state project development engineer, the state maintenance and operations engineer, one confidential secretary for each of the last-named five positions, and a confidential secretary for the public affairs administrator. The individuals appointed under this section shall be exempt from the provisions of the state civil service law, and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for individuals exempt from the operation of the state civil service law.

Sec. 240. RCW 41.06.152 and 1999 c 309 s 914 are each amended to read as follows:

(1) The board shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150(~~((15))~~) (12) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150(~~((15))~~) (12)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) When the board develops its priority list in the 1999-2001 biennium, for increases proposed for funding in the 2001-2003 biennium, the board shall give top priority to proposed increases to address documented recruitment and retention increases, and shall give lowest priority to proposed increases to recognize increased duties and responsibilities. When the board submits its prioritized list for the 2001-2003 biennium, the board shall also provide: A comparison of any differences between the salary increases recommended by the department of personnel staff and those adopted by the board; a review of any salary compression, inversion, or inequities that would result from implementing a recommended increase; and a complete description of the information relied upon by the board in adopting its proposals and priorities.

(4) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150(~~((15))~~) (12) that are due to emergent conditions. Emergent conditions are defined as emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

Sec. 24I. RCW 41.06.152 and 2002 c . . . s 240 (section 240 of this act) are each amended to read as follows:

(1) The (~~board~~) director shall adopt only those job classification revisions, class studies, and salary adjustments under RCW 41.06.150(~~((12))~~) (4) that:

(a) Are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent; and

(b) Are such that the office of financial management has reviewed the agency's fiscal impact statement and has concurred that the agency can absorb the biennialized cost of the reclassification, class study, or salary adjustment within the agency's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia.

(2) In addition to reclassifications, class studies, and salary adjustments under subsection (1)(b) of this section, the board may approve other reclassifications, class studies, and salary adjustments that meet the requirements of subsection (1)(a) of this section and have been approved under the procedures established under this subsection.

Before the department of personnel's biennial budget request is due to the office of financial management, the board shall prioritize requests for reclassifications, class studies, and salary adjustments for the next fiscal biennium. The board shall prioritize according to such criteria as are developed by the board consistent with RCW 41.06.150(~~((12))~~) (4)(a).

The board shall submit the prioritized list to the governor's office and the fiscal committees of the house of representatives and senate at the same time the department of personnel's biennial budget request is submitted. The office of financial management shall review the biennial cost of each proposed salary adjustment on the board's prioritized list.

In the biennial appropriations acts, the legislature may establish a level of funding, from the state general fund and other accounts, to be applied by the board to the prioritized list. Upon enactment of the appropriations act, the board may approve reclassifications, class studies, and salary adjustments only to the extent that the total cost does not exceed the level of funding established in the appropriations acts and the board's actions are consistent with the priorities established in the list. The legislature may also specify or otherwise limit in the appropriations act the implementation dates for actions approved by the board under this section.

(3) When the board develops its priority list in the 1999-2001 biennium, for increases proposed for funding in the 2001-2003 biennium, the board shall give top priority to proposed increases to address documented recruitment and retention increases, and shall give lowest priority to proposed increases to recognize increased duties and responsibilities. When the board submits its prioritized list for the 2001-2003 biennium, the board shall also provide: A comparison of any differences between the salary increases recommended by the department of personnel staff and those adopted by the board; a review of any salary compression, inversion, or inequities that would result from implementing a recommended increase; and a complete description of the information relied upon by the board in adopting its proposals and priorities.

(4) This section does not apply to the higher education hospital special pay plan or to any adjustments to the classification plan under RCW 41.06.150(~~((12))~~) (4) that are due to emergent conditions. Emergent conditions are defined as

emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

Sec. 242. RCW 41.06.500 and 1996 c 319 s 4 are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted by the board for other employees, and to the extent that the rules adopted apply only to managers shall take precedence over rules adopted by the board, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system consistent with the policy set forth in RCW 41.06.150(~~((+7))~~) (14). The system shall provide flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

Sec. 243. RCW 41.06.500 and 2002 c . . . s 242 (section 242 of this act) are each amended to read as follows:

(1) Except as provided in RCW 41.06.070, notwithstanding any other provisions of this chapter, the director is authorized to adopt, after consultation with state agencies and employee organizations, rules for managers as defined in RCW 41.06.022. These rules shall not apply to managers employed by institutions of higher education or related boards or whose positions are exempt. The rules shall govern recruitment, appointment, classification and allocation of positions, examination, training and career development, hours of work, probation, certification, compensation, transfer, affirmative action, promotion, layoff, reemployment, performance appraisals, discipline, and any and all other personnel practices for managers. These rules shall be separate from rules adopted (~~by the board~~) for other employees, and to the extent that the rules adopted under this section apply only to managers shall take precedence over rules adopted (~~by the board~~) for other employees, and are not subject to review by the board.

(2) In establishing rules for managers, the director shall adhere to the following goals:

(a) Development of a simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(b) Creation of a compensation system (~~consistent with the policy set forth in RCW 41.06.150(14). The system shall provide~~) that provides flexibility in setting and changing salaries, and shall require review and approval by the director in the case of any salary changes greater than five percent proposed for any group of employees;

(c) Establishment of a performance appraisal system that emphasizes individual accountability for program results and efficient management of resources; effective planning, organization, and communication skills; valuing and managing workplace diversity; development of leadership and interpersonal abilities; and employee development;

(d) Strengthening management training and career development programs that build critical management knowledge, skills, and abilities; focusing on managing and valuing workplace diversity; empowering employees by enabling them to share in workplace decision making and to be innovative, willing to take risks, and able to accept and deal with change; promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved; and enhancing mobility and career advancement opportunities;

(e) Permitting flexible recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate skills and training; allowing consideration of all qualified

candidates for positions as managers; and achieving affirmative action goals and diversity in the workplace;

(f) Providing that managers may only be reduced, dismissed, suspended, or demoted for cause; and

(g) Facilitating decentralized and regional administration.

Sec. 244. RCW 43.23.010 and 1990 c 37 s 1 are each amended to read as follows:

In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in RCW 41.06.070(~~((7))~~) (1)(g), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions.

Sec. 245. RCW 49.74.030 and 1993 c 281 s 58 are each amended to read as follows:

The commission in conjunction with the department of personnel or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150(~~((21))~~) (19) and 43.43.340(5), whichever is appropriate.

Sec. 246. RCW 49.74.030 and 2002 c . . . s 245 (section 245 of this act) are each amended to read as follows:

The commission in conjunction with the department of personnel or the state patrol, whichever is appropriate, shall attempt to resolve the noncompliance through conciliation. If an agreement is reached for the elimination of noncompliance, the agreement shall be reduced to writing and an order shall be issued by the commission setting forth the terms of the agreement. The

noncomplying state agency, institution of higher education, or state patrol shall make a good faith effort to conciliate and make a full commitment to correct the noncompliance with any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150(~~((19))~~) (6) and 43.43.340(5), whichever is appropriate.

Sec. 247. RCW 49.74.040 and 1985 c 365 s 11 are each amended to read as follows:

If no agreement can be reached under RCW 49.74.030, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW (~~((28B-16-100(20);))~~) 41.06.150(~~((21);))~~) (19) and 43.43.340(5), whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

Sec. 248. RCW 49.74.040 and 2002 c . . . s 247 (section 247 of this act) are each amended to read as follows:

If no agreement can be reached under RCW 49.74.030, the commission may refer the matter to the administrative law judge for hearing pursuant to RCW 49.60.250. If the administrative law judge finds that the state agency, institution of higher education, or state patrol has not made a good faith effort to correct the noncompliance, the administrative law judge shall order the state agency, institution of higher education, or state patrol to comply with this chapter. The administrative law judge may order any action that may be necessary to achieve compliance, provided such action is not inconsistent with the rules adopted under RCW 41.06.150(~~((19))~~) (6) and 43.43.340(5), whichever is appropriate.

An order by the administrative law judge may be appealed to superior court.

Sec. 249. RCW 41.56.201 and 2000 c 19 s 2 are each amended to read as follows:

(1) At any time after July 1, 1993, and prior to July 1, 2003, an institution of higher education and the exclusive bargaining representative of a bargaining unit of employees classified under chapter (~~((28B-16-01))~~) 41.06 RCW as appropriate may exercise their option to have their relationship and corresponding obligations governed entirely by the provisions of this chapter by complying with the following:

(a) The parties will file notice of the parties' intent to be so governed, subject to the mutual adoption of a collective bargaining agreement permitted by this section recognizing the notice of intent. The parties shall provide the notice to the Washington personnel resources board or its successor and the commission;

(b) During the negotiation of an initial contract between the parties under this chapter, the parties' scope of bargaining shall be governed by this chapter and any disputes arising out of the collective bargaining rights and obligations under this subsection shall be determined by the commission. If the commission finds that the parties are at impasse, the notice filed under (a) of this subsection shall be void and have no effect; and

(c) On the first day of the month following the month during which the institution of higher education and the exclusive bargaining representative provide notice to the Washington personnel resources board or its successor and the commission that they have executed an initial collective bargaining agreement recognizing the notice of intent filed under (a) of this subsection, chapter ~~((28B-16 or))~~ 41.06 RCW as appropriate shall cease to apply to all employees in the bargaining unit covered by the agreement.

(2) All collective bargaining rights and obligations concerning relations between an institution of higher education and the exclusive bargaining representative of its employees who have agreed to exercise the option permitted by this section shall be determined under this chapter, subject to the following:

(a) The commission shall recognize, in its current form, the bargaining unit as certified by the Washington personnel resources board or its successor. For purposes of determining bargaining unit status, positions meeting the criteria established under RCW 41.06.070 or its successor shall be excluded from coverage under this chapter. An employer may exclude such positions from a bargaining unit at any time the position meets the criteria established under RCW 41.06.070 or its successor. The limitations on collective bargaining contained in RCW 41.56.100 shall not apply to that bargaining unit.

(b) If, on the date of filing the notice under subsection (1)(a) of this section, there is a union shop authorized for the bargaining unit under rules adopted by the Washington personnel resources board or its successor, the union shop requirement shall continue in effect for the bargaining unit and shall be deemed incorporated into the collective bargaining agreement applicable to the bargaining unit.

(c) Salary increases negotiated for the employees in the bargaining unit shall be subject to the following:

(i) Salary increases shall continue to be appropriated by the legislature. The exclusive bargaining representative shall meet before a legislative session with the governor or governor's designee and the representative of the institution of higher education concerning the total dollar amount for salary increases and health care contributions that will be contained in the appropriations proposed by the governor under RCW 43.88.060;

(ii) The collective bargaining agreements may provide for salary increases from local efficiency savings that are different from or that exceed the amount or percentage for salary increases provided by the legislature in the omnibus appropriations act for the institution of higher education or allocated to the board of trustees by the state board for community and technical colleges, but the base

for salary increases provided by the legislature under (c)(i) of this subsection shall include only those amounts appropriated by the legislature, and the base shall not include any additional salary increases provided under this subsection (2)(c)(ii);

(iii) Any provisions of the collective bargaining agreements pertaining to salary increases provided under (c)(i) of this subsection shall be subject to modification by the legislature. If any provision of a salary increase provided under (c)(i) of this subsection is changed by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the modified provision.

(3) Nothing in this section may be construed to permit an institution of higher education to bargain collectively with an exclusive bargaining representative concerning any matter covered by: (a) Chapter 41.05 RCW, except for the related cost or dollar contributions or additional or supplemental benefits as permitted by chapter 492, Laws of 1993; or (b) chapter 41.32 or 41.40 RCW.

(4) Any collective bargaining agreement entered into under this section before July 1, 2004, that expires after July 1, 2004, shall, unless a superseding agreement complying with sections 301 through 314 of this act is negotiated by the parties, remain in full force and effect during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later.

PART III COLLECTIVE BARGAINING REFORM

NEW SECTION. Sec. 301. APPLICATION OF CHAPTER. Collective bargaining negotiations under this chapter shall commence no later than July 1, 2004. A collective bargaining agreement entered into under this chapter shall not be effective prior to July 1, 2005. However, any collective bargaining agreement entered into before July 1, 2004, covering employees affected by sections 301 through 314 of this act, that expires after July 1, 2004, shall, unless a superseding agreement complying with sections 301 through 314 of this act is negotiated by the parties, remain in full force during its duration, but the agreement may not be renewed or extended beyond July 1, 2005, or until superseded by a collective bargaining agreement entered into under sections 301 through 314 of this act, whichever is later. The duration of any collective bargaining agreement under this chapter shall not exceed one fiscal biennium.

NEW SECTION. Sec. 302. NEGOTIATION AND RATIFICATION OF COLLECTIVE BARGAINING AGREEMENTS. (1) For the purpose of negotiating collective bargaining agreements under this chapter, the employer shall be represented by the governor or governor's designee, except as provided for institutions of higher education in subsection (4) of this section.

(2)(a) If an exclusive bargaining representative represents more than one bargaining unit, the exclusive bargaining representative shall negotiate with each employer representative as designated in subsection (1) of this section one master collective bargaining agreement on behalf of all the employees in bargaining units that the exclusive bargaining representative represents. For those exclusive bargaining representatives who represent fewer than a total of five hundred employees each, negotiation shall be by a coalition of all those exclusive bargaining representatives. The coalition shall bargain for a master collective bargaining agreement covering all of the employees represented by the coalition. The governor's designee and the exclusive bargaining representative or representatives are authorized to enter into supplemental bargaining of agency-specific issues for inclusion in or as an addendum to the master collective bargaining agreement, subject to the parties' agreement regarding the issues and procedures for supplemental bargaining. This section does not prohibit cooperation and coordination of bargaining between two or more exclusive bargaining representatives.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education, except when the institution of higher education has elected to exercise its option under subsection (4) of this section to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1) through (3) of this section.

(c) If five hundred or more employees of an independent state elected official listed in RCW 43.01.010 are organized in a bargaining unit or bargaining units under section 308 of this act, the official shall be consulted by the governor or the governor's designee before any agreement is reached under (a) of this subsection concerning supplemental bargaining of agency specific issues affecting the employees in such bargaining unit.

(3) The governor shall submit a request for funds necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreement or for legislation necessary to implement the agreement. Requests for funds necessary to implement the provisions of bargaining agreements shall not be submitted to the legislature by the governor unless such requests:

(a) Have been submitted to the director of the office of financial management by October 1 prior to the legislative session at which the requests are to be considered; and

(b) Have been certified by the director of the office of financial management as being feasible financially for the state.

The legislature shall approve or reject the submission of the request for funds as a whole. The legislature shall not consider a request for funds to implement a collective bargaining agreement unless the request is transmitted to the legislature as part of the governor's budget document submitted under RCW 43.88.030 and 43.88.060. If the legislature rejects or fails to act on the submission, either party

may reopen all or part of the agreement or the exclusive bargaining representative may seek to implement the procedures provided for in section 310 of this act.

(4) For the purpose of negotiating agreements for institutions of higher education, the employer shall be the respective governing board of each of the universities, colleges, or community and technical colleges or a designee chosen by the board to negotiate on its behalf. A governing board may elect to have its negotiations conducted by the governor or governor's designee under the procedures provided for general government agencies in subsections (1), (2), and (3) of this section. Prior to entering into negotiations under this chapter, the institutions of higher education or their designees shall consult with the director of the office of financial management regarding financial and budgetary issues that are likely to arise in the impending negotiations. If appropriations are necessary to implement the compensation and fringe benefit provisions of the bargaining agreements reached between institutions of higher education and exclusive bargaining representatives agreed to under the provisions of this chapter, the governor shall submit a request for such funds to the legislature according to the provisions of subsection (3) of this section.

(5) There is hereby created a joint committee on employment relations, which consists of two members with leadership positions in the house of representatives, representing each of the two largest caucuses; the chair and ranking minority member of the house appropriations committee, or its successor, representing each of the two largest caucuses; two members with leadership positions in the senate, representing each of the two largest caucuses; and the chair and ranking minority member of the senate ways and means committee, or its successor, representing each of the two largest caucuses. The governor shall periodically consult with the committee regarding appropriations necessary to implement the compensation and fringe benefit provisions in the master collective bargaining agreements, and upon completion of negotiations, advise the committee on the elements of the agreements and on any legislation necessary to implement the agreements.

(6) If, after the compensation and fringe benefit provisions of an agreement are approved by the legislature, a significant revenue shortfall occurs resulting in reduced appropriations, as declared by proclamation of the governor or by resolution of the legislature, both parties shall immediately enter into collective bargaining for a mutually agreed upon modification of the agreement.

(7) After the expiration date of a collective bargaining agreement negotiated under this chapter, all of the terms and conditions specified in the collective bargaining agreement remain in effect until the effective date of a subsequently negotiated agreement, not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

NEW SECTION. **Sec. 303. SCOPE OF BARGAINING.** (1) Except as otherwise provided in this chapter, the matters subject to bargaining include wages, hours, and other terms and conditions of employment, and the negotiation of any question arising under a collective bargaining agreement.

(2) The employer is not required to bargain over matters pertaining to:

(a) Health care benefits or other employee insurance benefits, except as required in subsection (3) of this section;

(b) Any retirement system or retirement benefit; or

(c) Rules of the director of personnel or the Washington personnel resources board adopted under section 203, chapter . . . , Laws of 2002 (section 203 of this act).

(3) Matters subject to bargaining include the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits. However, except as provided otherwise in this subsection for institutions of higher education, negotiations regarding the number of names to be certified for vacancies, promotional preferences, and the dollar amount expended on behalf of each employee for health care benefits shall be conducted between the employer and one coalition of all the exclusive bargaining representatives subject to this chapter. Any such provision agreed to by the employer and the coalition shall be included in all master collective bargaining agreements negotiated by the parties. For institutions of higher education, promotional preferences and the number of names to be certified for vacancies shall be bargained under the provisions of section 302(4) of this act.

(4) The employer and the exclusive bargaining representative shall not agree to any proposal that would prevent the implementation of approved affirmative action plans or that would be inconsistent with the comparable worth agreement that provided the basis for the salary changes implemented beginning with the 1983-1985 biennium to achieve comparable worth.

(5) The employer and the exclusive bargaining representative shall not bargain over matters pertaining to management rights established in section 305 of this act.

(6) Except as otherwise provided in this chapter, if a conflict exists between an executive order, administrative rule, or agency policy relating to wages, hours, and terms and conditions of employment and a collective bargaining agreement negotiated under this chapter, the collective bargaining agreement shall prevail. A provision of a collective bargaining agreement that conflicts with the terms of a statute is invalid and unenforceable.

(7) This section does not prohibit bargaining that affects contracts authorized by section 208 of this act.

NEW SECTION. Sec. 304. CONTENTS OF COLLECTIVE BARGAINING AGREEMENTS. (1) The parties to a collective bargaining agreement shall reduce the agreement to writing and both shall execute it.

(2) A collective bargaining agreement shall contain provisions that:

(a) Provide for a grievance procedure that culminates with final and binding arbitration of all disputes arising over the interpretation or application of the collective bargaining agreement and that is valid and enforceable under its terms when entered into in accordance with this chapter; and

(b) Require processing of disciplinary actions or terminations of employment of employees covered by the collective bargaining agreement entirely under the procedures of the collective bargaining agreement. Any employee, when fully reinstated, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, and retirement and federal old age, survivors, and disability insurance act credits, but without back pay for any period of suspension.

(3)(a) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and an employee organization representing the same bargaining units, the effective date of the collective bargaining agreement may be the day after the termination of the previous collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

(b) If a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the employer and the exclusive bargaining representative representing different bargaining units, the effective date of the collective bargaining agreement may be the day after the termination date of whichever previous collective bargaining agreement covering one or more of the units terminated first, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with that effective date.

NEW SECTION. Sec. 305. MANAGEMENT RIGHTS. The employer shall not bargain over rights of management which, in addition to all powers, duties, and rights established by constitutional provision or statute, shall include but not be limited to the following:

- (1) The functions and programs of the employer, the use of technology, and the structure of the organization;
- (2) The employer's budget and the size of the agency work force, including determining the financial basis for layoffs;
- (3) The right to direct and supervise employees;
- (4) The right to take whatever actions are deemed necessary to carry out the mission of the state and its agencies during emergencies; and
- (5) Retirement plans and retirement benefits.

NEW SECTION. Sec. 306. RIGHTS OF EMPLOYEES. Except as may be specifically limited by this chapter, employees shall have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through representatives of their own choosing for the purpose of collective bargaining free from interference, restraint, or coercion. Employees shall also have the right to refrain from any or all such activities except to the extent that they may be required to pay a fee to an exclusive bargaining representative under a union security provision authorized by this chapter.

NEW SECTION. Sec. 307. RIGHT TO STRIKE NOT GRANTED. Nothing contained in chapter . . . , Laws of 2002 (this act) permits or grants to any employee the right to strike or refuse to perform his or her official duties.

NEW SECTION. Sec. 308. BARGAINING UNITS. (1) A bargaining unit of employees covered by this chapter existing on the effective date of this section shall be considered an appropriate unit, unless the unit does not meet the requirements of (a) and (b) of this subsection. The commission, after hearing upon reasonable notice to all interested parties, shall decide, in each application for certification as an exclusive bargaining representative, the unit appropriate for certification. In determining the new units or modifications of existing units, the commission shall consider: The duties, skills, and working conditions of the employees; the history of collective bargaining; the extent of organization among the employees; the desires of the employees; and the avoidance of excessive fragmentation. However, a unit is not appropriate if it includes:

(a) Both supervisors and nonsupervisory employees. A unit that includes only supervisors may be considered appropriate if a majority of the supervisory employees indicates by vote that they desire to be included in such a unit; or

(b) More than one institution of higher education. For the purposes of this section, any branch or regional campus of an institution of higher education is part of that institution of higher education.

(2) The exclusive bargaining representatives certified to represent the bargaining units existing on the effective date of this section shall continue as the exclusive bargaining representative without the necessity of an election.

(3) If a single employee organization is the exclusive bargaining representative for two or more units, upon petition by the employee organization, the units may be consolidated into a single larger unit if the commission considers the larger unit to be appropriate. If consolidation is appropriate, the commission shall certify the employee organization as the exclusive bargaining representative of the new unit.

NEW SECTION. Sec. 309. REPRESENTATION. (1) The commission shall determine all questions pertaining to representation and shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections. The commission shall adopt rules that provide for at least the following:

(a) Secret balloting;

(b) Consulting with employee organizations;

(c) Access to lists of employees, job classification, work locations, and home mailing addresses;

(d) Absentee voting;

(e) Procedures for the greatest possible participation in voting;

(f) Campaigning on the employer's property during working hours; and

(g) Election observers.

(2)(a) If an employee organization has been certified as the exclusive bargaining representative of the employees of a bargaining unit, the employee organization may act for and negotiate master collective bargaining agreements that will include within the coverage of the agreement all employees in the bargaining unit as provided in section 302(2)(a) of this act. However, if a master collective bargaining agreement is in effect for the exclusive bargaining representative, it shall apply to the bargaining unit for which the certification has been issued. Nothing in this section requires the parties to engage in new negotiations during the term of that agreement.

(b) This subsection (2) does not apply to exclusive bargaining representatives who represent employees of institutions of higher education.

(3) The certified exclusive bargaining representative shall be responsible for representing the interests of all the employees in the bargaining unit. This section shall not be construed to limit an exclusive representative's right to exercise its discretion to refuse to process grievances of employees that are unmeritorious.

(4) No question concerning representation may be raised if:

(a) Fewer than twelve months have elapsed since the last certification or election; or

(b) A valid collective bargaining agreement exists covering the unit, except for that period of no more than one hundred twenty calendar days nor less than ninety calendar days before the expiration of the contract.

NEW SECTION. Sec. 310. IMPASSE. Should the parties fail to reach agreement in negotiating a collective bargaining agreement, either party may request of the commission the assistance of an impartial third party to mediate the negotiations.

If a collective bargaining agreement previously negotiated under this chapter should expire while negotiations are underway, the terms and conditions specified in the collective bargaining agreement shall remain in effect for a period not to exceed one year from the expiration date stated in the agreement. Thereafter, the employer may unilaterally implement according to law.

If resolution is not reached through mediation by one hundred days beyond the expiration date of a contract previously negotiated under this chapter, or one hundred days from the initiation of mediated negotiations if no such contract exists, an independent fact-finder shall be appointed by the commission.

The fact-finder shall meet with the parties or their representatives, or both, and make inquiries and investigations, hold hearings, and take such other steps as may be appropriate. If the dispute is not settled, the fact-finder shall make findings of fact and recommend terms of settlement within thirty days.

Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. The commission, the fact-finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within ten working days after their receipt from the fact-finder.

Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

Costs for mediator services shall be borne by the commission, and costs for fact-finding shall be borne equally by the negotiating parties.

NEW SECTION. Sec. 311. UNION SECURITY. (1) A collective bargaining agreement may contain a union security provision requiring as a condition of employment the payment, no later than the thirtieth day following the beginning of employment or the effective date of this section, whichever is later, of an agency shop fee to the employee organization that is the exclusive bargaining representative for the bargaining unit in which the employee is employed. The amount of the fee shall be equal to the amount required to become a member in good standing of the employee organization. Each employee organization shall establish a procedure by which any employee so requesting may pay a representation fee no greater than the part of the membership fee that represents a pro rata share of expenditures for purposes germane to the collective bargaining process, to contract administration, or to pursuing matters affecting wages, hours, and other conditions of employment.

(2) An employee who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets, or teachings of a church or religious body of which the employee is a member, shall, as a condition of employment, make payments to the employee organization, for purposes within the program of the employee organization as designated by the employee that would be in harmony with his or her individual conscience. The amount of the payments shall be equal to the periodic dues and fees uniformly required as a condition of acquiring or retaining membership in the employee organization minus any included monthly premiums for insurance programs sponsored by the employee organization. The employee shall not be a member of the employee organization but is entitled to all the representation rights of a member of the employee organization.

(3) Upon filing with the employer the written authorization of a bargaining unit employee under this chapter, the employee organization that is the exclusive bargaining representative of the bargaining unit shall have the exclusive right to have deducted from the salary of the employee an amount equal to the fees and dues uniformly required as a condition of acquiring or retaining membership in the employee organization. The fees and dues shall be deducted each pay period from the pay of all employees who have given authorization for the deduction and shall be transmitted by the employer as provided for by agreement between the employer and the employee organization.

(4) Employee organizations that before the effective date of this section were entitled to the benefits of this section shall continue to be entitled to these benefits.

NEW SECTION. Sec. 312. UNFAIR LABOR PRACTICES ENUMERATED. (1) It is an unfair labor practice for an employer:

(a) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed by this chapter;

(b) To dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: **PROVIDED,** That subject to rules adopted by the commission, an employer shall not be prohibited from permitting employees to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) To encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) To discharge or discriminate otherwise against an employee because that employee has filed charges or given testimony under this chapter;

(e) To refuse to bargain collectively with the representatives of its employees.

(2) It is an unfair labor practice for an employee organization:

(a) To restrain or coerce an employee in the exercise of the rights guaranteed by this chapter: **PROVIDED,** That this subsection shall not impair the right of an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or to an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) To cause or attempt to cause an employer to discriminate against an employee in violation of subsection (1)(c) of this section;

(c) To discriminate against an employee because that employee has filed charges or given testimony under this chapter;

(d) To refuse to bargain collectively with an employer.

(3) The expressing of any views, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

NEW SECTION. Sec. 313. UNFAIR LABOR PRACTICE PROCEDURES.

(1) The commission is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders: **PROVIDED,** That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected or impaired by any means of adjustment, mediation, or conciliation in labor disputes that have been or may hereafter be established by law.

(2) If the commission determines that any person has engaged in or is engaging in an unfair labor practice, the commission shall issue and cause to be served upon the person an order requiring the person to cease and desist from such

unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and the reinstatement of employees.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or in which the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

NEW SECTION. **Sec. 314. ENFORCEMENT OF COLLECTIVE BARGAINING AGREEMENTS.** (1) For the purposes of implementing final and binding arbitration under grievance procedures required by section 304 of this act, the parties to a collective bargaining agreement may agree on one or more permanent umpires to serve as arbitrator, or may agree on any impartial person to serve as arbitrator, or may agree to select arbitrators from any source available to them, including federal and private agencies, in addition to the staff and list of arbitrators maintained by the commission. If the parties cannot agree to the selection of an arbitrator, the commission shall supply a list of names in accordance with the procedures established by the commission.

(2) An arbitrator may require any person to attend as a witness and to bring with him or her any book, record, document, or other evidence. The fees for such attendance shall be paid by the party requesting issuance of the subpoena and shall be the same as the fees of witnesses in the superior court. Arbitrators may administer oaths. Subpoenas shall issue and be signed by the arbitrator and shall be served in the same manner as subpoenas to testify before a court of record in this state. If any person so summoned to testify refuses or neglects to obey such subpoena, upon petition authorized by the arbitrator, the superior court may compel the attendance of the person before the arbitrator or punish the person for contempt in the same manner provided for the attendance of witnesses or the punishment of them in the courts of this state.

(3) The arbitrator shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party and for good cause, may postpone the hearing to a time not extending beyond the date fixed by the collective bargaining agreement for making the award. The arbitration award shall be in writing and signed by the arbitrator. The arbitrator shall, promptly upon its rendition, serve a true copy of the award on each of the parties or their attorneys of record.

(4) If a party to a collective bargaining agreement negotiated under this chapter refuses to submit a grievance for arbitration, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county or of any county in which the labor dispute exists and such court shall have jurisdiction to issue an order compelling arbitration. Disputes concerning compliance with grievance procedures shall be reserved for determination by the arbitrator. Arbitration shall be ordered if the grievance states

a claim that on its face is covered by the collective bargaining agreement. Doubts as to the coverage of the arbitration clause shall be resolved in favor of arbitration.

(5) If a party to a collective bargaining agreement negotiated under this chapter refuses to comply with the award of an arbitrator determining a grievance arising under the collective bargaining agreement, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court of Thurston county or of any county in which the labor dispute exists and such court shall have jurisdiction to issue an order enforcing the arbitration award.

NEW SECTION. Sec. 315. All powers, duties, and functions of the department of personnel pertaining to collective bargaining are transferred to the public employment relations commission except mediation of grievances and contracts, arbitration of grievances and contracts, and unfair labor practices, filed under a collective bargaining agreement existing before the effective date of this section. Any mediation, arbitration, or unfair labor practice issue filed between July 1, 2004, and July 1, 2005, under a collective bargaining agreement existing before the effective date of this section, shall be resolved by the Washington personnel resources board in accordance with the authorities, rules, and procedures that were established under RCW 41.06.150(11) as it existed before the effective date of this section.

NEW SECTION. Sec. 316. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of personnel pertaining to the powers, functions, and duties transferred in section 315 of this act shall be delivered to the custody of the public employment relations commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of personnel in carrying out the powers, functions, and duties transferred in section 315 of this act shall be made available to the public employment relations commission. All funds, credits, leases, and other assets held in connection with the powers, functions, and duties transferred in section 315 of this act shall be assigned to the public employment relations commission.

Any appropriations made to the department of personnel for carrying out the powers, functions, and duties transferred in section 315 of this act shall be deleted at the time that such powers, functions, and duties are transferred to the public employment relations commission. All funding required to perform these transferred powers, functions, and duties is to be provided by the public employment relations commission once the transfers occur.

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. 317. After the effective date of this section, the director of personnel and the executive director of the public employment relations commission shall meet and agree upon a schedule for the transfer of department of personnel labor relation employees and property to the commission. Whenever a 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. 318. All business pending before the department of personnel pertaining to the powers, functions, and duties transferred in section 315 of this act shall be continued and acted upon by the public employment relations commission. All existing contracts and obligations of the department of personnel, pertaining to collective bargaining, shall remain in full force and shall be performed by the public employment relations commission.

NEW SECTION. Sec. 319. The transfer of the powers, duties, functions, and personnel of the department of personnel shall not affect the validity of any act performed before the effective date of this section.

NEW SECTION. Sec. 320. If apportionments of budgeted funds are required because of the transfers directed by sections 316 through 319 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. 321. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under section 303 of this act. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent

managers or confidential employees in personnel or labor relations matters, or who advise or represent the state in tort actions.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW, except:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the department of personnel.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.

(14) "Unfair labor practice" means any unfair labor practice listed in section 312 of this act.

NEW SECTION. Sec. 322. OFFICE OF FINANCIAL MANAGEMENT'S LABOR RELATIONS SERVICE ACCOUNT. (1) The office of financial management's labor relations service account is created in the custody of the state

treasurer to be used as a revolving fund for the payment of labor relations services required for the negotiation of the collective bargaining agreements entered into under this chapter. An amount not to exceed one-tenth of one percent of the approved allotments of salaries and wages for all bargaining unit positions in the classified service in each of the agencies subject to this chapter, except the institutions of higher education, shall be charged to the operations appropriations of each agency and credited to the office of financial management's labor relations service account as the allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, the amount shall be charged against the allotments pro rata, at a rate to be fixed by the director of financial management from time to time. Payment for services rendered under this chapter shall be made on a quarterly basis to the state treasurer and deposited into the office of financial management's labor relations service account.

(2) Moneys from the office of financial management's labor relations service account shall be disbursed by the state treasurer by warrants on vouchers authorized by the director of financial management or the director's designee. An appropriation is not required.

PART IV MISCELLANEOUS

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

(1) RCW 41.06.163 (Comprehensive salary and fringe benefit survey plan required—Contents) and 1993 c 281 s 30, 1987 c 185 s 9, 1986 c 158 s 6, 1979 c 151 s 59, & 1977 ex.s. c 152 s 3; and

(2) RCW 41.06.165 (Salary surveys—Criteria) and 1977 ex.s. c 152 s 4.

NEW SECTION. Sec. 402. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.06.140 (Employee participation in policy and rule making, administration, etc.—Publication of board rules) and 1961 c 1 s 14;

(2) RCW 41.50.804 (Existing collective bargaining agreements not affected) and 2002 c . . . s 228 (section 228 of this act), 1993 c 281 s 40, & 1975-76 2nd ex.s. c 105 s 17; and

(3) RCW 41.06.520 (Administration, management of institutions of higher education—Rules—Audit and review by board) and 1993 c 281 s 11.

NEW SECTION. Sec. 403. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.06.380 (Purchasing services by contract not prohibited—Limitations) and 1979 ex.s. c 46 s 2;

(2) RCW 41.06.382 (Purchasing services by contract not prohibited—Limitations) and 1979 ex.s. c 46 s 1;

(3) RCW 41.56.023 (Application of chapter to employees of institutions of higher education) and 1993 c 379 s 301;

(4) RCW 41.56.201 (Employees of institutions of higher education—Option to have relationship and obligations governed by chapter) and 2000 c 19 s 2 & 1993 c 379 s 304; and

(5) RCW 28B.16.015 (Option to have relationship and obligations governed by chapter 41.56 RCW) and 1993 c 379 s 310.

NEW SECTION. Sec. 404. The following acts or parts of acts, as now existing or hereafter amended, are each repealed:

(1) RCW 41.64.010 (Personnel appeals board—Created—Membership—Definitions) and 1981 c 311 s 1;

(2) RCW 41.64.020 (Removal of members—Hearing) and 1981 c 311 s 3;

(3) RCW 41.64.030 (Compensation of members—Travel expenses—Disclosure of financial affairs) and 1984 c 287 s 73, 1984 c 34 s 4, & 1981 c 311 s 4;

(4) RCW 41.64.040 (Election of chairperson—Biennial meetings) and 1981 c 311 s 5;

(5) RCW 41.64.050 (Executive secretary—Appointment of assistants) and 1981 c 311 s 6;

(6) RCW 41.64.060 (Location of principal office—Hearings—Procedure) and 1981 c 311 s 7;

(7) RCW 41.64.070 (Journal of official actions) and 1981 c 311 s 8;

(8) RCW 41.64.080 (Employee appeals—Hearings examiners) and 1981 c 311 s 9;

(9) RCW 41.64.090 (Employee appeals—Jurisdiction) and 1993 c 281 s 41 & 1981 c 311 s 10;

(10) RCW 41.64.100 (Employee appeals—Hearing—Decision to be rendered within ninety days, exceptions) and 1997 c 386 s 43 & 1981 c 311 s 11;

(11) RCW 41.64.110 (Employee appeals—Hearing—Procedure—Official record) and 1985 c 461 s 7 & 1981 c 311 s 12;

(12) RCW 41.64.120 (Employee appeals—Findings of fact, conclusions of law, order—Notice to employee and employing agency) and 1981 c 311 s 13;

(13) RCW 41.64.130 (Employee appeals—Review by superior court—Grounds—Notice, service—Certified transcript) and 1981 c 311 s 14;

(14) RCW 41.64.140 (Employee appeals—Review by superior court—Procedure—Appellate review) and 1988 c 202 s 42 & 1981 c 311 s 15; and

(15) RCW 41.64.910 (Severability—1981 c 311) and 1981 c 311 s 24.

NEW SECTION. Sec. 405. SECTION CAPTIONS. Part headings and section captions used in this act do not constitute part of the law.

NEW SECTION. Sec. 406. Sections 301 through 322 of this act constitute a new chapter in Title 41 RCW.

NEW SECTION. Sec. 407. The governor shall take such action as is necessary to ensure that sections 301 through 314 of this act are implemented on their effective dates.

NEW SECTION. **Sec. 408.** Until July 1, 2004, the public employment relations commission is authorized to contract with the department of personnel for labor relations staffing necessary to carry out its functions.

NEW SECTION. **Sec. 409.** (1) Notwithstanding the provisions of section 301 of this act, the parties to collective bargaining to be conducted under sections 301 through 314 of this act shall meet by September 1, 2003, to identify those payroll-related bargaining issues that affect the capacity of the central state payroll system, as determined by the department of personnel. The parties shall agree on which bargaining issues will be bargained in a coalition of employee representatives and will be agreed to uniformly in each collective bargaining agreement. This agreement is effective only for collective bargaining agreements entered into for implementation during the 2005-2007 biennium. The purpose of the agreement is to minimize the risk to the payroll system resulting from agreements reached in the first round of collective bargaining under this act.

(2) This section expires June 30, 2007.

NEW SECTION. **Sec. 410.** 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. 411.** (1) Sections 203, 204, 213 through 223, 227, 229 through 231, 241, 243, 246, 248, 301 through 307, 309 through 316, 318, 319, and 402 of this act take effect July 1, 2004.

(2) Section 224 of this act takes effect March 15, 2005.

(3) Sections 208, 234 through 238, and 403 of this act take effect July 1, 2005.

(4) Sections 225, 226, 233, and 404 of this act take effect July 1, 2006.

NEW SECTION. **Sec. 412.** Section 230 of this act expires June 30, 2015.

Passed the House March 11, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 3, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 3, 2002.

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

"I am returning herewith, without my approval as to section 237, Substitute House Bill No. 1268 entitled:

"AN ACT Relating to personnel;"

Substitute House Bill No. 1268 is an historic civil service reform act. I strongly support this act, and herald its passage into law.

Section 237 of this bill would have amended RCW 47.46.040 by changing an internal reference in subsection 1 of that statute. However, section 16 of Engrossed House Bill No. 2723, which I signed into law on March 22, 2002, repeals RCW 47.46.040(1) in its entirety. If section 237 of this bill were to become law, it would create a confusing double amendment that could not be corrected by the Code Reviser.

For these reasons, I have vetoed section 237 of Substitute House Bill No. 1268.

With the exception of section 237, Substitute House Bill No. 1268 is approved."

CHAPTER 355

[Senate Bill 5513]

DEPARTMENT OF TRANSPORTATION EMPLOYEES—ASSAULTS BY MOTORISTS

AN ACT Relating to motorist assault upon department of transportation employees; and adding a new section to chapter 47.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.04 RCW to read as follows:

(1) For the purposes of this section only, "assault" means an act by a motorist that results in physical injury to an employee of the department while engaged in highway construction or maintenance activities along a roadway right-of-way (fence line to fence line, landscaped areas) or in the loading and unloading of passenger vehicles in service of the vessel as a maritime employee not covered under chapter 51.32 RCW or engaged in those work activities as a Washington State Ferries terminal employee covered under chapter 51.32 RCW.

(2) In recognition of the nature of employment in departmental highway construction or maintenance activities and by the Washington State Ferries, this section provides a supplementary program to reimburse employees of the department for some of their costs attributable to their being the victims of assault by motorists. This program is limited to the reimbursement provided in this section.

(3) An employee is entitled to receive the reimbursement provided in this section only if the secretary finds that each of the following has occurred:

(a) A motorist has assaulted the employee who is engaged in highway construction or maintenance along a roadway right-of-way (fence line to fence line, landscaped areas) or service of the vessel as a maritime employee or terminal employee engaged in the loading or unloading of passenger vehicles and as a result the employee has sustained demonstrated physical injuries that have required the employee to miss one or more days of work;

(b) The assault is not attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment; and

(c) The department of labor and industries has approved the employee's workers' compensation application under chapter 51.32 RCW, or for maritime employees the department of transportation risk management office has approved maintenance and cure benefits under 46 U.S.C. Sec. 688 et seq.

(4) The reimbursement authorized under this section is as follows:

(a) The employee's accumulated sick leave days will not be reduced for the workdays missed. The injured worker who qualifies for and receives assault benefits will also receive full standard benefits (vacation leave, sick leave, health insurance, etc.) as if uninjured;

(b) For an employee covered by chapter 51.32 RCW, for each workday missed for which the employee is not eligible to receive compensation under chapter 51.32

RCW, the employee will receive the full amount of the injured worker’s net pay at the time of injury; and

(c) In respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, or under federal maritime law benefits, including the Jones Act, for an employee deemed a maritime employee assigned to work in service of the vessel or a nonmaritime terminal employee covered under chapter 51.32 RCW, the employee will be reimbursed in an amount that, when added to that compensation, will result in the employee receiving no more than full net pay (gross pay less mandatory and voluntary deductions) for the workdays missed.

(5) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury. No application for assault benefits is valid nor may a claim be enforced unless it was made within one year after the day upon which the injury occurred.

(6) The employee is not entitled to the reimbursement provided in subsection (4) of this section for a workday for which the secretary or an applicable designee finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW or federal maritime law, including the Jones Act.

(7) The reimbursement may be made only for absences that the secretary or an applicable designee believes are justified.

(8) While the employee is receiving reimbursement under this section, he or she will continue to be classified as a state employee, and the reimbursement amount is considered as salary or wages.

(9) The department shall make all reimbursement payments required to be made to employees under this section. The payments are considered as a salary or wage expense and must be paid by the department in the same manner and from the same appropriations as other salary and wage expenses for the department.

(10) Nothing in this section precludes the department from recovering the supplemental payments authorized by this section from the assaulting motorist, and that recovery is considered exclusive of recovery under chapter 51.24 RCW.

(11) If the legislature revokes the reimbursement authorized under this section or repeals this section, no affected employee is entitled after that to receive the reimbursement as a matter of contractual right.

Passed the Senate January 30, 2002.

Passed the House March 8, 2002.

Approved by the Governor April 3, 2002.

Filed in Office of Secretary of State April 3, 2002.

CHAPTER 356

[Second Substitute House Bill 2403]

HIGHER EDUCATION—COLLECTIVE BARGAINING

AN ACT Relating to labor relations at the public four-year institutions of higher education; adding a new chapter to Title 41 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. LEGISLATIVE FINDINGS OF FACT AND STATEMENTS OF POLICY. The legislature finds and declares that:

(1) The people of the state of Washington have a fundamental interest in developing harmonious and cooperative labor relations within the public four-year institutions of higher education.

(2) Teachers in the public school system and instructors in the community colleges in the state have been granted the opportunity to bargain collectively. It is desirable to expand the jurisdiction of the public employment relations commission to cover faculty in the state's public four-year institutions of higher education.

(3) It is the purpose of this chapter to provide the means by which relations between the boards of regents and trustees of the public four-year institutions of higher education of the state of Washington and their faculty may assure that the responsibilities and authorities granted to these institutions are carried out in an atmosphere that permits the fullest participation by faculty in determining the conditions of employment which affect them. It is the intent of the legislature to accomplish this purpose by providing a uniform structure for recognizing the right of faculty of the public four-year institutions of higher education to engage in collective bargaining as provided in this chapter, if they should so choose.

(4) It is the further purpose of this chapter to provide orderly and clearly defined procedures for collective bargaining and dispute resolution, and to define and prohibit certain practices that are contrary to the public interest.

***NEW SECTION. Sec. 2. EXERCISE OF FUNCTIONS OF FACULTY IN SHARED GOVERNANCE—GUARANTEE OF ACADEMIC FREEDOM.**

(1) The legislature recognizes that consultation and joint decision making between administration and faculty is the long-accepted manner of governing public four-year institutions of higher education and is essential to performing their educational missions. However, collective bargaining can fill the same role. Therefore, faculty at public four-year institutions must choose between collective bargaining and all other faculty governance systems or practices with respect to policies on academic and professional matters affecting the public four-year institutions of higher education.

(2) It is the policy of the state of Washington to encourage the pursuit of excellence in teaching, research, and learning through the free exchange of ideas among the faculty, students, and staff of its institutions. All parties subject to this chapter shall respect and endeavor to preserve academic freedom.

(3) In the absence of a valid collective bargaining agreement, and for matters upon which collective bargaining is prohibited under section 4 of this act, the rules, regulations, provisions, and procedures, policies, and practices

manuals in public four-year institutions of higher education shall govern relations between faculty and the respective boards of regents and trustees.

*Sec. 2 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 3. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Faculty governance system" means the internal organization that serves as the faculty advisory body and is charged with the responsibility for recommending policies, regulations, and rules for the college or university.

(2) "Grievance arbitration" means a method to resolve disputes arising out of interpretations or application of the terms of an agreement under which the parties to a controversy must accept the decision of an impartial person or persons.

(3) "Collective bargaining" and "bargaining" mean the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times to bargain in good faith in an effort to reach agreement with respect to wages, hours, and other terms and conditions of employment. A written contract incorporating any agreements reached must be executed if requested by either party. The obligation to bargain does not compel either party to agree to a proposal or to make a concession.

In the event of a dispute between an employer and an exclusive bargaining representative over the matters that are terms and conditions of employment, the commission shall decide which items are mandatory subjects for bargaining, subject to section 4 of this act.

(4) "Commission" means the public employment relations commission established pursuant to RCW 41.58.010.

(5) "Faculty" means employees who, at a public four-year institution of higher education, are designated with faculty status or who perform faculty duties as defined through policies established by the faculty governance system, excluding casual or temporary employees, administrators, confidential employees, graduate student employees, postdoctoral and clinical employees, and employees subject to chapter 41.06 or 41.56 RCW.

(6) "Employee organization" means any organization that includes as its members faculty of the employer and that has as one of its purposes representation of faculty under this chapter. A faculty governance system is not an employee organization as defined in this subsection.

(7) "Employer" means the board of regents or the board of trustees of a public four-year institution of higher education.

(8) "Exclusive bargaining representative" means any employee organization that has been determined by the commission to represent all of the faculty members of the bargaining unit as required in section 6 of this act.

(9) "Administrator" means deans, associate and assistant deans, vice-provosts, vice-presidents, the provost, chancellors, vice-chancellors, the president, and faculty members who exercise managerial or supervisory authority over other faculty members.

(10) "Confidential employee" means (a) a person who participates directly on behalf of an employer in the formulation of labor relations policy, the preparation for or conduct of collective bargaining, or the administration of a collective bargaining agreement, if the role of the person is not merely routine or clerical in nature but calls for the consistent exercise of independent judgment; and (b) a person who assists and acts in a confidential capacity to a person in (a) of this subsection.

(11) "Bargaining unit" includes all faculty members of all campuses of each of the colleges and universities. Only one bargaining unit is allowable for faculty of each employer, and that unit must contain all faculty members from all schools, colleges, and campuses of the employer.

(12) "Public four-year institutions of higher education" means the University of Washington, Washington State University, Eastern Washington University, Western Washington University, Central Washington University, and The Evergreen State College.

NEW SECTION. Sec. 4. SCOPE OF BARGAINING. (1) Prohibited subjects of bargaining include but are not limited to the following:

(a) Consideration of the merits, necessity, or organization of any service, activity, or program established by law or resolution of the employer, except for the terms and conditions of employment of faculty members who may be affected by such service, activity, or program.

(b) The amount of any fees that are not a term or condition of employment.

(c) Admission requirements for students, conditions for the award of certificates and degrees, and the content, methods, supervision, and evaluation of courses, curricula, and research programs.

(2) Permissive subjects of bargaining include, but are not limited to, criteria and standards to be used for the appointment, promotion, evaluation, and tenure of faculty.

(3) Nothing in this section shall be construed to limit the right of the employer to consult with any employee on any matter outside the scope of bargaining.

****NEW SECTION. Sec. 5. RIGHT TO ORGANIZE OR REFRAIN FROM ORGANIZING. Faculty members have the right to self-organization, to form, join, or assist employee organizations, and to bargain collectively through exclusive bargaining representatives of their own choosing, and also have the right to refrain from any or all of these activities except to the extent that faculty members may be required to make payments to an exclusive bargaining representative or charitable organization under a union security provision authorized in this chapter. However, faculty members may not engage in collective bargaining until any existing faculty senate or council and any other faculty governance system has been abolished. Any shared governance practices may not be exercised so long as the faculty engages in collective bargaining.***

****Sec. 5 was vetoed. See message at end of chapter.***

NEW SECTION. **Sec. 6. EXCLUSIVE BARGAINING REPRESENTATIVES—DUTY OF FAIR REPRESENTATION.** The employee organization which has been determined by the commission to be the exclusive bargaining representative of a bargaining unit shall be required to represent all the faculty members within the bargaining unit without regard to membership in that employee organization: PROVIDED, That any faculty member may at any time present his or her complaints or concerns to the employer and have such complaints or concerns adjusted without intervention of the exclusive bargaining representative, as long as the exclusive bargaining representative has been given an opportunity to be present at the adjustment and to make its views known, and as long as the adjustment is not inconsistent with the terms of a collective bargaining agreement then in effect.

NEW SECTION. **Sec. 7. REPRESENTATION CASE PROCEDURE.** The commission shall certify exclusive bargaining representatives in accordance with the procedures specified in this section.

(1) No question concerning representation may be raised within one year following issuance of a certification under this section.

(2) If there is a valid collective bargaining agreement in effect, no question concerning representation may be raised except during the period not more than ninety nor less than sixty days prior to the expiration date of the agreement: PROVIDED, That in the event a valid collective bargaining agreement, together with any renewals or extensions thereof, has been or will be in existence for more than three years, then a question concerning representation may be raised not more than ninety nor less than sixty days prior to the third anniversary date or any subsequent anniversary date of the agreement; and if the exclusive bargaining representative is removed as the result of such procedure, the collective bargaining agreement shall be deemed to be terminated as of the date of the certification or the anniversary date following the filing of the petition, whichever is later.

(3) An employee organization seeking certification as exclusive bargaining representative of a bargaining unit, or faculty members seeking decertification of their exclusive bargaining representative, must make a confidential showing to the commission of credible evidence demonstrating that at least thirty percent of the faculty in the bargaining unit are in support of the petition. The petition must indicate the name, address, and telephone number of any employee organization known to claim an interest in the bargaining unit.

(4) A petition filed by an employer must be supported by credible evidence demonstrating the good faith basis on which the employer claims the existence of a question concerning the representation of its faculty.

(5) Any employee organization which makes a confidential showing to the commission of credible evidence demonstrating that it has the support of at least ten percent of the faculty in the bargaining unit involved is entitled to intervene in proceedings under this section and to have its name listed as a choice on the ballot in an election conducted by the commission.

(6) The commission shall determine any question concerning representation by conducting a secret ballot election among the faculty members in the bargaining unit, except under the following circumstances:

(a) If only one employee organization is seeking certification as exclusive bargaining representative of a bargaining unit for which there is no incumbent exclusive bargaining representative, the commission may, upon the concurrence of the employer and the employee organization, determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer; or

(b) If the commission determines that a serious unfair labor practice has been committed which interfered with the election process and precludes the holding of a fair election, the commission may determine the question concerning representation by conducting a cross-check comparing the employee organization's membership records or bargaining authorization cards against the employment records of the employer.

(7) The representation election ballot must contain a choice for each employee organization qualifying under subsection (3) or (5) of this section, together with a choice for no representation. The representation election shall be determined by the majority of the valid ballots cast. If there are three or more choices on the ballot and none of the three or more choices receives a majority of the valid ballots cast, a runoff election shall be conducted between the two choices receiving the highest and second highest numbers of votes.

(8) The commission shall certify as the exclusive bargaining representative the employee organization that has been determined to represent a majority of faculty members in a bargaining unit.

NEW SECTION. Sec. 8. BARGAINING UNIT DETERMINATION. In any dispute concerning membership in the bargaining unit or the allocation of employees or positions to a bargaining unit, the commission, after a hearing or hearings, shall determine the dispute.

NEW SECTION. Sec. 9. COMMISSION—MEDIATION ACTIVITIES—OTHER DISPUTE RESOLUTION PROCEDURES AUTHORIZED. (1) The commission shall conduct mediation activities upon the request of either party as a means of assisting in the settlement of unresolved matters considered under this chapter.

(2) If any matter being jointly considered by the exclusive bargaining representative and the board of regents or trustees is not settled by the means provided in this chapter, either party may request the assistance and advice of the commission. Nothing in this section prohibits an employer and an employee organization from agreeing to substitute, at their own expense, some other impasse procedure or other means of resolving matters considered under this chapter.

NEW SECTION. Sec. 10. PROVISIONS RELATING TO COMPENSATION—RESTRICTIONS. (1) Except as provided in subsection (2) of this section, provisions of collective bargaining agreements relating to compensation shall not exceed the amount or percentage established by the legislature in the appropriations act. If any compensation provision is affected by subsequent modification of the appropriations act by the legislature, both parties shall immediately enter into collective bargaining for the sole purpose of arriving at a mutually agreed upon replacement for the affected provision.

(2) An employer may provide additional compensation to faculty that exceeds that provided by the legislature.

NEW SECTION. Sec. 11. NEGOTIATED AGREEMENTS—PROCEDURES FOR GRIEVANCE ARBITRATION. A collective bargaining agreement negotiated under this chapter may include procedures for final and binding grievance arbitration of the disputes arising about the interpretation or application of the agreement.

(1) The parties to a collective bargaining agreement may agree on one or more permanent umpires to serve as arbitrator, or may agree on any impartial person to serve as arbitrator, or may agree to select arbitrators from any source available to them, including federal and private agencies, in addition to the staff and dispute resolution panel maintained by the commission.

(2) An arbitrator may require any person to attend as a witness, and to bring with him or her any book, record, document, or other evidence. Subpoenas shall issue and be signed by the arbitrator and shall be served in the same manner as subpoenas to testify before a court of record in this state. The fees for such attendance shall be paid by the party requesting issuance of the subpoena and shall be the same as the fees of witnesses in the superior court. If any person so summoned to testify refuses or neglects to obey such subpoena, upon petition authorized by the arbitrator, the superior court may compel the attendance of such person before the arbitrator, or punish the person for contempt in the same manner provided for the attendance of witnesses or the punishment of them in the courts of this state.

(3) The arbitrator shall appoint a time and place for the hearing and notify the parties thereof, and may adjourn the hearing from time to time as may be necessary, and, on application of either party and for good cause, may postpone the hearing to a time not extending beyond a date fixed by the collective bargaining agreement for making the award. The arbitrator has the power to administer oaths. The arbitration award shall be in writing and signed by the arbitrator or a majority of the members of the arbitration panel. The arbitrator shall, promptly upon its rendition, serve a true copy of the award on each of the parties or their attorneys.

(4) If a party to a collective bargaining agreement negotiated under this chapter refuses to submit a grievance for arbitration, the other party to the collective bargaining agreement may invoke the jurisdiction of the superior court for any county in which the labor dispute exists, and such court has jurisdiction to

issue an order compelling arbitration. The commission, on its own motion, may invoke the jurisdiction of the superior court where a strike or lockout is in existence. Arbitration shall be ordered if the grievance states a claim which on its face is covered by the collective bargaining agreement, and doubts as to the coverage of the arbitration clause shall be resolved in favor of arbitration. Disputes concerning compliance with grievance procedures shall be reserved for determination by the arbitrator.

(5) If a party to a collective bargaining agreement negotiated under this chapter refuses to comply with the award of an arbitrator determining a grievance arising under such collective bargaining agreement, the other party to the collective bargaining agreement, or any affected employee, may invoke the jurisdiction of the superior court for any county in which the labor dispute exists, and such court has jurisdiction to issue an order enforcing the arbitration award. The commission, on its own motion, may invoke the jurisdiction of the superior court where a strike or lockout is in existence. The court shall not substitute its judgment for that of the arbitrator and shall enforce any arbitration award which is based on the collective bargaining agreement, except that an arbitration award shall not be enforced and a new arbitration proceeding may be ordered:

(a) If the arbitration award was procured by corruption, fraud, or undue means;

(b) If there was evident partiality or corruption in the arbitrator or arbitrators;

(c) If the arbitrator or arbitrators were guilty of misconduct, in refusing to postpone a hearing upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or of any other misbehavior by which the rights of any party have been prejudiced; or

(d) If the arbitrator or arbitrators have exceeded their powers, or so imperfectly executed them that a final and definite award on the subject matter was not made, in which event the court also has discretion to remand the matter to the arbitrator or arbitrators who issued the defective award.

NEW SECTION. Sec. 12. COLLECTIVE BARGAINING AGREEMENT—EXCLUSIVE BARGAINING REPRESENTATIVE—UNION SECURITY PROVISIONS—DUES AND FEES. (1) Upon filing with the employer the voluntary written authorization of a bargaining unit faculty member under this chapter, the employee organization which is the exclusive bargaining representative of the bargaining unit shall have the right to have deducted from the salary of the bargaining unit faculty member the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. Such employee authorization shall not be irrevocable for a period of more than one year. Such dues and fees shall be deducted from the pay of all faculty members who have given authorization for such deduction, and shall be transmitted by the employer to the employee organization or to the depository designated by the employee organization.

(2) A collective bargaining agreement may include union security provisions, but not a closed shop. If an agency shop or other union security provision is agreed to, the employer shall enforce any such provision by deductions from the salary of bargaining unit faculty members affected thereby and shall transmit such funds to the employee organization or to the depository designated by the employee organization.

(3) A faculty member who is covered by a union security provision and who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such faculty member is a member shall pay to a nonreligious charity or other charitable organization an amount of money equivalent to the periodic dues and initiation fees uniformly required as a condition of acquiring or retaining membership in the exclusive bargaining representative. The charity shall be agreed upon by the faculty member and the employee organization to which such faculty member would otherwise pay the dues and fees. The faculty member shall furnish written proof that such payments have been made. If the faculty member and the employee organization do not reach agreement on such matter, the dispute shall be submitted to the commission for determination.

NEW SECTION. **Sec. 13. UNFAIR LABOR PRACTICES.** (1) It is an unfair labor practice for an employer to:

(a) Interfere with, restrain, or coerce faculty members in the exercise of the rights guaranteed by this chapter;

(b) Dominate or interfere with the formation or administration of any employee organization or contribute financial or other support to it: **PROVIDED,** That subject to rules adopted by the commission, an employer is not prohibited from permitting faculty members to confer with it or its representatives or agents during working hours without loss of time or pay;

(c) Encourage or discourage membership in any employee organization by discrimination in regard to hire, tenure of employment, or any term or condition of employment;

(d) Discharge or discriminate otherwise against a faculty member because that faculty member has filed charges or given testimony under this chapter;

(e) Refuse to bargain collectively with the exclusive bargaining representative of its faculty.

(2) It is an unfair labor practice for an employee organization to:

(a) Restrain or coerce a faculty member in the exercise of the rights guaranteed by this chapter: **PROVIDED,** That this subsection does not impair the rights of (i) an employee organization to prescribe its own rules with respect to the acquisition or retention of membership in the employee organization or (ii) to the rights of an employer in the selection of its representatives for the purpose of bargaining or the adjustment of grievances;

(b) Cause or attempt to cause an employer to discriminate against a faculty member in violation of subsection (1)(c) of this section;

(c) Discriminate against a faculty member because that faculty member has filed charges or given testimony under this chapter;

(d) Refuse to bargain collectively with an employer.

(3) The expressing of any view, arguments, or opinion, or the dissemination thereof to the public, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice under this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

NEW SECTION. **Sec. 14. COMMISSION TO PREVENT UNFAIR LABOR PRACTICES—SCOPE.** (1) The commission is empowered to prevent any person from engaging in any unfair labor practice as defined in section 13 of this act: **PROVIDED,** That a complaint shall not be processed for any unfair labor practice occurring more than six months before the filing of the complaint with the commission. This power shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, law, equity or otherwise.

(2) If the commission determines that any person has engaged in or is engaging in any such unfair labor practices as defined in section 13 of this act, then the commission shall issue and cause to be served upon such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action as will effectuate the purposes and policy of this chapter, such as the payment of damages and/or the reinstatement of faculty members.

(3) The commission may petition the superior court for the county in which the main office of the employer is located or wherein the person who has engaged or is engaging in such unfair labor practice resides or transacts business, for the enforcement of its order and for appropriate temporary relief.

NEW SECTION. **Sec. 15. RULES ADOPTION.** The commission is authorized from time to time to make, amend, and rescind, in the manner prescribed by the administrative procedure act, chapter 34.05 RCW, such rules and regulations as may be necessary to carry out the provisions of this chapter.

NEW SECTION. **Sec. 16. STRIKES AND LOCKOUTS PROHIBITED—VIOLATIONS—REMEDIES.** The right of faculty to engage in any strike is prohibited. The right of a board of regents or trustees to engage in any lockout is prohibited. Should either a strike or lockout occur, the representative of the faculty or board of regents or trustees may invoke the jurisdiction of the superior court in the county in which the labor dispute exists, and such court has jurisdiction to issue an appropriate order against either or both parties. In fashioning an order, the court shall take into consideration not only the elements necessary for injunctive relief but also the purpose and goals of this chapter and any mitigating factors such as the commission of an unfair labor practice by either party.

NEW SECTION. **Sec. 17. STATE ADMINISTRATIVE PROCEDURE ACT NOT TO AFFECT.** Contracts or agreements, or any provision thereof,

entered into between boards of regents or trustees and exclusive bargaining representatives pursuant to this chapter are not affected by or subject to chapter 34.05 RCW.

NEW SECTION. **Sec. 18. 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. 19. RETROACTIVE ACCRUAL OF BENEFITS AND SALARIES.** Whenever a collective bargaining agreement between an employer and an exclusive bargaining representative is concluded after the termination date of the previous collective bargaining agreement between the same parties, the effective date of the collective bargaining agreement may be the day after the termination date of the previous collective bargaining agreement, and all benefits included in the new collective bargaining agreement, including wage or salary increases, may accrue beginning with the effective date as established by this section.

NEW SECTION. **Sec. 20.** Nothing in this chapter shall be construed to annul, modify, or preclude the renewal or continuation of any lawful agreement entered into before the effective date of this section between an employer and an employee organization covering wages, hours, and terms and conditions of employment.

NEW SECTION. **Sec. 21.** Except as otherwise expressly provided in this chapter, this chapter shall not be construed to deny or otherwise abridge any rights, privileges, or benefits granted by law to employees. This chapter shall not be construed to interfere with the responsibilities and rights of the board of regents or board of trustees as specified by federal and state law.

NEW SECTION. **Sec. 22.** Section captions used in this act are not any part of the law.

NEW SECTION. **Sec. 23.** This act takes effect October 1, 2002.

NEW SECTION. **Sec. 24.** Sections 1 through 23 of this act constitute a new chapter in Title 41 RCW.

Passed the House March 13, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 4, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

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

"I am returning herewith, without my approval as to sections 2 and 5, Second Substitute House Bill No. 2403 entitled:

"AN ACT Relating to labor relations at the public four-year institutions of higher education;"

Second Substitute House Bill No. 2403 is an historic measure that will allow faculty at our four-year higher education institutions to collectively bargain, should they choose to do so. It establishes a process for elections, certification of bargaining units and the scope of bargaining.

Section 2 of the bill would have required faculty to choose between collective bargaining and shared faculty governance systems with respect to policies on academic and professional matters. Similarly, section 5, relating to the right to organize or refrain from organizing, would have provided that faculty members may not engage in collective bargaining until any existing faculty senate or council is abolished.

The functions of the faculty governance system and collective bargaining are separate and distinct. Faculty governance systems advise the universities on issues pertaining to curriculum development, content of courses and other issues that are prohibited subjects of collective bargaining under section 4 of this bill. Collective bargaining addresses issues such as wages and terms and conditions of employment. Neither system is equipped to fill the role of the other.

The right for faculty to collectively bargain is both implied and expressed in several provisions of this bill. Vetoing sections 2 and 5 will have no impact on that grant of right, and little impact on the overall framework set out by the bill.

For these reasons, I have vetoed sections 2 and 5 of Second Substitute House Bill No. 2403.

With the exception of sections 2 and 5, Second Substitute House Bill No. 2403 is approved."

CHAPTER 357

[Engrossed Substitute House Bill 2224]

INSURANCE—SPECIALTY PRODUCER LICENSES

AN ACT Relating to licensing specialty producers of certain lines of insurance; and adding a new chapter to Title 48 RCW.

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

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

(1) "Communications equipment" means handsets, pagers, personal digital assistants, portable computers, automatic answering devices, batteries, and their accessories or other devices used to originate or receive communications signals or service approved for coverage by rule of the commissioner, and also includes services related to the use of the devices.

(2) "Communications equipment insurance program" means an insurance program as described in section 3 of this act.

(3) "Communications service" means the service necessary to send, receive, or originate communications signals.

(4) "Customer" means a person or entity purchasing or leasing communications equipment or communications services from a vendor.

(5) "Specialty producer license" means a license issued under section 2 of this act that authorizes a vendor to offer or sell insurance as provided in section 3 of this act.

(6) "Supervising agent" means an agent licensed under RCW 48.17.060 who provides training as described in section 4 of this act and is affiliated to a licensed vendor.

(7) "Vendor" means a person or entity resident or with offices in this state in the business of leasing, selling, or providing communications equipment or communications service to customers.

(8) "Appointing insurer" means the insurer appointing the vendor as its agent under a specialty producer license.

NEW SECTION. Sec. 2. (1) A vendor that intends to offer insurance under section 3 of this act must file a specialty producer license application with the commissioner. Before the commissioner issues such a license, the vendor must be appointed as the agent of one or more authorized appointing insurers under a vendor's specialty producer license.

(2) Upon receipt of an application, if the commissioner is satisfied that the application is complete, the commissioner may issue a specialty producer license to the vendor.

NEW SECTION. Sec. 3. A specialty producer license authorizes a vendor and its employees and authorized representatives to offer and sell to, enroll in, and bill and collect premiums from customers for insurance covering communications equipment on a master, corporate, group, or individual policy basis.

NEW SECTION. Sec. 4. (1) A vendor issued a specialty producer license may not issue insurance under section 3 of this act unless:

(a) At every location where customers are enrolled in communications equipment insurance programs, written material regarding the program is made available to prospective customers; and

(b) The communications equipment insurance program is operated with the participation of a supervising agent who, with authorization and approval from the appointing insurer, supervises a training program for employees of the licensed vendor.

(2) Employees and authorized representatives of a vendor issued a specialty producer license may only act on behalf of the vendor in the offer, sale, solicitation, or enrollment of customers in a communications equipment insurance program. The conduct of these employees and authorized representatives within the scope of their employment or agency is the same as conduct of the vendor for purposes of this title.

NEW SECTION. Sec. 5. (1) A vendor issued a specialty producer license under this chapter is subject to RCW 48.17.540 through 48.17.560.

(2) The commissioner may adopt rules necessary for the implementation of this chapter, including, but not limited to, rules governing:

(a) The specialty producer license application process, including any forms required to be used;

(b) The standards for approval and the required content of written materials required under section 4(1)(a) of this act;

(c) The approval and required content of training materials required under section 4(1)(b) of this act;

(d) Establishing license fees to defray the cost of administering the specialty producer licensure program;

(e) Establishing requirements for the remittance of premium funds to the supervising agent under authority from the program insurer; and

(f) Determining the applicability or nonapplicability of other provisions of this title to this chapter.

NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute a new chapter in Title 48 RCW.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 358

[Substitute House Bill 2366]

SECRETARY OF STATE—DONATIONS

AN ACT Relating to funding and expenditures of the secretary of state; amending RCW 43.07.037, 40.14.020, and 42.17.710; adding new sections to chapter 43.07 RCW; and adding a new section to chapter 42.52 RCW.

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

**Sec. 1. RCW 43.07.037 and 1996 c 253 s 105 are each amended to read as follows:*

(1) The secretary of state ((and the council)) may solicit and accept gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms.

(2) Moneys received under the authority of this section may be used only for the following purposes:

(a) Conducting oral histories;

(b) Archival activities; and

(c) International trade hosting and missions.

(3) Moneys received under the authority of this section must be deposited in the oral history, archives, and international trade account established in section 2 of this act.

(4) The secretary of state shall adopt rules to govern and protect the receipt and expenditure of the proceeds.

**Sec. 1 was vetoed. See message at end of chapter.*

***NEW SECTION.** *Sec. 2. A new section is added to chapter 43.07 RCW to read as follows:*

The oral history, archives, and international trade account is created in the custody of the state treasurer. All moneys received under RCW 43.07.037 must be deposited in the account. Expenditures from the account may be made only for the purposes of the oral history program in RCW 43.07.220 and section 3 of this act, the archives program under RCW 40.14.020, and international trade hosting and missions. Only the secretary of state or the secretary of state's designee may authorize expenditures from the account. An appropriation is not required for expenditures, but the account is subject to allotment procedures under chapter 43.88 RCW.

**Sec. 2 was vetoed. See message at end of chapter.*

NEW SECTION. *Sec. 3. A new section is added to chapter 43.07 RCW to read as follows:*

The secretary of state may fund oral history activities through donations as provided in RCW 43.07.037. The activities may include, but not be limited to, conducting interviews, preparing and indexing transcripts, publishing transcripts and photographs, and presenting displays and programs. Donations that do not meet the criteria of the oral history program may not be accepted. The secretary of state shall adopt rules necessary to implement this section.

Sec. 4. *RCW 40.14.020 and 1995 c 326 s 1 are each amended to read as follows:*

All public records shall be and remain the property of the state of Washington. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed, only in accordance with the provisions of this chapter. In order to insure the proper management and safeguarding of public records, the division of archives and records management is established in the office of the secretary of state. The state archivist, who shall administer the division and have reasonable access to all public records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- (1) To manage the archives of the state of Washington;*
- (2) To centralize the archives of the state of Washington, to make them available for reference and scholarship, and to insure their proper preservation;*
- (3) To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all state departments and other agencies of state government;*
- (4) To insure the maintenance and security of all state public records and to establish safeguards against unauthorized removal or destruction;*
- (5) To establish and operate such state record centers as may from time to time be authorized by appropriation, for the purpose of preserving, servicing, screening and protecting all state public records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;*
- (6) To adopt rules under chapter 34.05 RCW:*

(a) Setting standards for the durability and permanence of public records maintained by state and local agencies;

(b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of public documents or records in a manner consistent with current standards, policies, and procedures of the department of information services for the acquisition of information technology;

(c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as public records; or

(d) To carry out any other provision of this chapter;

(7) To gather and disseminate to interested agencies information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;

(8) To operate a central microfilming bureau which will microfilm, at cost, records approved for filming by the head of the office of origin and the archivist; to approve microfilming projects undertaken by state departments and all other agencies of state government; and to maintain proper standards for this work;

(9) To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by sale or burning; directly to supervise such destruction of public records as shall be authorized by the terms of this chapter; (~~and~~)

(10) To assist and train state and local agencies in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as public records;

(11) To solicit, accept, and expend donations as provided in RCW 43.07.037 for the purpose of the archive program. These purposes include, but are not limited to, acquisition, accession, interpretation, and display of archival materials. Donations that do not meet the criteria of the archive program may not be accepted.

**Sec. 5. RCW 42.17.710 and 1993 c 2 s 11 are each amended to read as follows:*

(1) During the period beginning on the thirtieth day before the date a regular legislative session convenes and continuing thirty days past the date of final adjournment, and during the period beginning on the date a special legislative session convenes and continuing through the date that session adjourns, no state official or a person employed by or acting on behalf of a state official or state legislator may solicit or accept contributions to a public office fund, to a candidate or authorized committee, or to retire a campaign debt.

(2) This section does not apply to activities authorized in RCW 43.03.037.

**Sec. 5 was vetoed. See message at end of chapter.*

***NEW SECTION.** Sec. 6. A new section is added to chapter 42.52 RCW to read as follows:*

This chapter does not prohibit the secretary of state or his or her designee from soliciting and accepting contributions to the oral history, archives, and international trade account under RCW 43.07.037.

*Sec. 6 was vetoed. See message at end of chapter.

Passed the House February 15, 2002.

Passed the Senate March 5, 2002.

Approved by the Governor April 4, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

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

"I am returning herewith, without my approval as to sections 1, 2, 5 and 6. Substitute House Bill No. 2366 entitled:

"AN ACT Relating to funding and expenditures of the secretary of state:"

Current law authorizes the Office of the Secretary of State to accept private donations for its programs, subject to rules established by the Secretary and the appropriation process. I support those portions of this bill that clarify that donations received by the Secretary of State may be used to fund oral history and state archival activities.

However, neither the Constitution nor laws of the State of Washington assign the Secretary of State significant responsibilities in the area of international trade. It is neither necessary nor appropriate for the Secretary of State to solicit or accept donations, or maintain a dedicated account, for purposes of international trade hosting or missions. To expand the Secretary of State's authority to those areas, as opposed to cross-cultural or goodwill programs, would create potential for inconsistency and conflict with the Office of Trade and Economic Development, the Department of Agriculture, the Office of International Relations and Protocol, the International Trade Office and other state agencies that do not report to the Secretary.

For these reasons, I have vetoed sections 1, 2, 5 and 6 of Substitute House Bill No. 2366.

With the exception of sections 1, 2, 5 and 6, Substitute House Bill No. 2366 is approved."

CHAPTER 359

[Engrossed Substitute House Bill 2451]

TRANSPORTATION FUNDING

AN ACT Relating to transportation funding and appropriations; amending 2001 2nd sp.s. c 14 ss 102, 203, 204, 205, 206, 202, 207, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 220, 221, 222, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 301, 401, 402, 403, 406, and 407 (uncodified); amending 2000 2nd sp.s. c 1 s 724 (uncodified); adding new sections to 2001 2nd sp.s. c 14 (uncodified); creating a new section: making appropriations; and declaring an emergency.

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

2001-03 BIENNIUM

GENERAL GOVERNMENT AGENCIES—OPERATING

Sec. 101. 2001 2nd sp.s. c 14 s 102 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM

Motor Vehicle Account—State Appropriation	\$	((1,676,000))
		<u>488,000</u>

~~((The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity: \$1,188,000 of the motor vehicle account—state appropriation is provided for the implementation of House Bill No. 2269 in the form enacted by the legislature. If House Bill No. 2269 is not enacted in the form passed by the legislature by July 31, 2001, this funding will lapse.))~~

TRANSPORTATION AGENCIES

NEW SECTION. **Sec. 201.** A new section is added to 2001 2nd sp.s. c 14 (uncodified) to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD—OPERATING PROGRAM

Rural Arterial Trust Account—State		
Appropriation	\$	741,000
Motor Vehicle Account—State Appropriation	\$	1,886,000
County Arterial Preservation Account—		
State Appropriation	\$	700,000
TOTAL APPROPRIATION	\$	3,327,000

Sec. 202. 2001 2nd sp.s. c 14 s 203 (uncodified) is amended to read as follows:

FOR THE COUNTY ROAD ADMINISTRATION BOARD—CAPITAL PROGRAM

Rural Arterial Trust Account—State		
Appropriation	\$	((50,182,000))
		<u>56,965,000</u>
Motor Vehicle Account—State Appropriation	\$	((1,887,000))
		<u>368,000</u>
County Arterial Preservation Account—		
State Appropriation	\$	((28,551,000))
		<u>28,681,000</u>
TOTAL APPROPRIATION	\$	((80,620,000))
		<u>86,014,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

~~((It is the intent of the legislature that the county road administration board receive separate programmatic appropriations for the operating program and the~~

capital program for the 2001-03 biennium, and thereafter. Agency administrative costs may not be charged against projects or funded from the capital program appropriations:

~~—(1) \$1,540,000 of the motor vehicle account—state appropriation, \$870,000 of the county arterial preservation account—state appropriation, and \$917,000 of the rural arterial trust account—state appropriation are provided for the operations program. Of the motor vehicle account—state appropriation, \$368,000 is provided for county ferries as set forth in RCW 47.56.724(4).~~

~~—(2) \$347,000 of the motor vehicle account—state appropriation, \$27,681,000 of the county arterial preservation account—state appropriation, and \$49,265,000 of the rural arterial trust account—state appropriation are provided for the capital program.))~~

\$368,000 of the motor vehicle account—state appropriation is provided for county ferries as set forth in RCW 47.56.724(4).

NEW SECTION. Sec. 203. A new section is added to 2001 2nd sp.s. c 14 (uncodified) to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD—OPERATING PROGRAM

Urban Arterial Trust Account—State		
Appropriation	\$	1,552,000
Transportation Improvement Account—		
State Appropriation	\$	1,551,000
TOTAL APPROPRIATION	\$	3,103,000

Sec. 204. 2001 2nd sp.s. c 14 s 204 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION IMPROVEMENT BOARD—CAPITAL PROGRAM

Urban Arterial Trust Account—State		
Appropriation	\$	((94,690,000)) 105,622,000
Transportation Improvement Account—		
State Appropriation	\$	((18,605,000)) 130,456,000
TOTAL APPROPRIATION	\$	((213,295,000)) 236,078,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

~~((It is the intent of the legislature that the transportation improvement board receive separate programmatic appropriations for the operating program and the capital program for the 2001-03 biennium, and thereafter. Agency administrative costs may not be charged against projects or funded from the capital program appropriations.~~

~~—(1) \$1,551,000 of the transportation improvement account—state appropriation and \$1,552,000 of the urban arterial trust account—state appropriation are provided for the operations program.~~

~~—(2) \$117,054,000 of the transportation improvement account—state appropriation and \$93,138,000 of the urban arterial trust account—state appropriation are provided for the capital program.~~

~~—(3))~~ The transportation improvement account—state appropriation includes ~~(((\$47,325,000))~~ \$34,030,000 in proceeds from the sale of bonds authorized in RCW 47.26.500. The transportation improvement board may authorize the use of current revenues available to the agency in-lieu of bond proceeds for any part of the state appropriation.

Sec. 205. 2001 2nd sp.s. c 14 s 205 (uncodified) is amended to read as follows:

FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE

Motor Vehicle Account—State Appropriation \$ 3,596,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$2,823,000 of the motor vehicle account—state appropriation is provided for the operation of the house of representatives transportation committee.

(2) To the extent possible, this appropriation shall utilize funds allocated under RCW 46.68.110(2).

(3) The house of representatives transportation committee shall conduct a study of the use of motorized scooters. The study shall, at a minimum, identify and analyze the safety issues associated with use of motorized scooters, including use by children, commuters, and the disabled. House of representatives transportation committee cochairs shall each appoint one member from their respective caucus to serve as cochair of the study group. The chair of the senate transportation committee may also appoint two members from the senate transportation committee, one from each caucus, to participate in the study. The study shall be staffed by house of representatives transportation committee staff. The study group shall report back to the house of representatives transportation committee by January 1, 2002.

(4) The house of representatives transportation committee shall conduct a study of the effect of the weight of fire-fighting apparatus on state roadways. The study shall determine, at a minimum, the various types of fire-fighting apparatus currently in use on state roadways; the size, weight and load effect of fire-fighting apparatus that are currently in use or that potentially could be in use on the state roadways, as well as on state bridges; and the effect on public safety. The study may examine state and federal laws that affect fire-fighting apparatuses. House of representatives transportation committee cochairs shall each appoint one member from their respective caucus to serve as cochair of the study group. The study shall be staffed by house of representatives transportation committee staff. The study

group will report back to the house of representatives transportation committee by January 1, 2002.

(5) The legislative transportation committee shall conduct a feasibility study of potential for economic partnerships between the Washington state ferries and local government entities, including but not limited to port districts. The study is intended to improve ferry terminals. The study shall, at a minimum, identify the market, physical, and economic factors that should be examined in determining whether an economic or commercial development partnership project on or around Washington state ferry terminals is likely to produce revenue for the partners. The study shall apply those factors to an analysis of each terminal used by Washington state ferries and recommend whether further exploration of state and local partnerships would be of potential economic benefit to the partners. The entity selected to perform the study through the request for proposals process will report back to the transportation committees of the legislature by December 1, 2001.

(6) The legislative transportation committee, in cooperation with an areawide transportation system or systems, shall undertake an evaluation of providing locally sponsored transit services in a local community supplemental to those services provided by an areawide system. The evaluation shall address:

- (a) The costs and benefits of providing such services;
- (b) The impact of such service on ridership on the areawide system and on any regional systems;
- (c) Funding options for supplemental services; and
- (d) Institutional arrangements affecting the institution of supplemental services.

The committee shall work with the department of transportation, areawide transit providers, community officials, private businesses, labor organizations, and others as appropriate in conducting the evaluation, and in developing a pilot project if feasible. The committee shall also conduct a study of local transit systems with the purpose of making recommendations to make local transit services more seamless and efficient. The committee shall provide an interim progress report to the legislature by January 2002. The committee shall report its findings to the legislature not later than December 1, 2002.

(7) The legislative transportation committee shall undertake an evaluation of the statutory exemptions for transportation taxes, including but not limited to motor vehicle fuel taxes. The committee shall report its findings to the legislature by December 1, 2003.

(8) The legislative transportation committee will convene a working group to review the costs, processes, and other considerations relating to special vehicle license plates. The working group will also review special license plate tabs and emblems. The committee will report its findings to the legislature by December 1, 2002.

(9) The legislative transportation committee shall form a working group to evaluate the feasibility of developing an alternative corridor to Interstate 5 and

Interstate 405 to expedite the movement of commerce between the Canadian border, the central Puget Sound region, the south Puget Sound region, and more southerly areas. The corridor would run from approximately the Canadian border in the north to approximately Lewis county in the south. This alternative corridor analysis shall address truck, rail, pipeline, and other utility needs for the corridor, to determine the feasibility of financing and constructing such a corridor, taking into consideration: (a) Anticipated present and future freight demand as well as freight traffic relief for existing state highway and rail routes; (b) the potential for carrying general purpose traffic to provide relief for other state highway routes; (c) a cost-benefit analysis detailing various funding possibilities, including federal funds and the use of charges and tolls to fund construction and operation of the corridor as a utility corridor and a toll facility; (d) an analysis detailing possible right of way locations, including but not limited to property donations, trades, or credits between or among the public and private sector; and (e) possible private sector, local, or other partnerships that may be used to fund the project. The working group shall report its findings to the full committee by December 15, 2002.

Sec. 206. 2001 2nd sp.s. c 14 s 207 (uncodified) is amended to read as follows:

FOR THE TRANSPORTATION COMMISSION

Motor Vehicle Account—State Appropriation	\$ 773,000
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Sec. 207. 2001 2nd sp.s. c 14 s 209 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—FIELD OPERATIONS BUREAU

State Patrol Highway Account—	
State Appropriation	\$ ((162,081,000))
	<u>164,147,000</u>

State Patrol Highway Account—	
Federal Appropriation	\$ ((7,084,000))
	<u>7,278,000</u>

State Patrol Highway Account—	
Private/Local Appropriation	\$ 169,000
TOTAL APPROPRIATION	\$ ((169,334,000))
	<u>171,594,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities of the field operations bureau:

(1) As a result of the elimination of the vehicle inspection number (VIN) program, no permanent Washington state patrol employee shall be displaced from employment without the opportunity to fill a vacant patrol position for which he or she has a preference and meets the minimum qualifications. For the purpose of

the VIN program elimination, the guidelines under chapter 356-26 WAC (Registers-Certifications) shall be suspended for those employees holding the classification of VIN 1 or 2.

(2) To the extent possible, the agency shall transfer displaced VIN personnel into the 20 newly created school bus inspection and motor carrier safety assistance program positions. The agency shall fill existing vacant positions within the commercial vehicle division with displaced VIN personnel. The agency shall report by December 31, 2001, to the senate and house of representatives transportation committees on efforts to relocate displaced VIN personnel.

*Sec. 208. 2001 2nd sp.s. c 14 s 210 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL—SUPPORT SERVICES BUREAU

Multimodal Transportation Account—State

Appropriation	\$	5,247,000
State Patrol Highway Account—		
State Appropriation	\$	((69,960,000))
		<u>71,736,000</u>
State Patrol Highway Account—		
Private/Local Appropriation	\$	735,000
TOTAL APPROPRIATION	\$	((70,695,000))
		<u>77,718,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities of the support services bureau:

(1) \$67,000 of the state patrol highway account—state appropriation is provided solely for the patrol to work jointly with the department of transportation, the military department, and the department of natural resources, in coordination with the state interoperability executive committee, on the development and implementation of a secure geographical information system database to illustrate locations and specifications of statewide radio and microwave towers

(2) \$5,247,000 of the multimodal transportation account—state appropriation and \$2,299,000 of the state patrol highway account—state appropriation is a one time funding of general fund activities. The general fund will resume funding these activities beginning in the 2003-05 biennium.

(3) The Washington state patrol shall review the policy of allowing commissioned uniformed officers to use personally assigned vehicles for commuting purposes. This provision applies to every Washington state patrol officer except the chief and any officer that requires use of a vehicle for work performed throughout the day. The agency shall submit to the house of representatives and senate transportation committees by December 1, 2002, a list of officers that use vehicles for commuting purposes and any revisions to the vehicle use policy resulting from the review required under this subsection.

(4) The Washington state patrol shall contract with an independent consulting firm to develop a cost allocation system to identify which agency activities qualify as a "highway purpose" under Article II, section 40 of the state Constitution. The consulting firm shall present findings and recommendations to the legislative transportation committee during the 2002 legislative interim. The legislative transportation committee shall approve or reject those findings and recommendations.

(5) The final cost allocation system and processes must be utilized to develop the Washington state patrol's request budget for 2003-05.

*Sec. 208 was partially vetoed. See message at end of chapter.

NEW SECTION. Sec. 209. A new section is added to 2001 2nd sp.s. c 14 (uncodified) to read as follows:

FOR THE WASHINGTON STATE PATROL—INVESTIGATIVE SERVICES BUREAU

Multimodal Transportation Account—State
 Appropriation \$ 5,088,000

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for the activities referenced: \$5,088,000 of the multimodal transportation account—state appropriation is a one time funding of general fund activities. The general fund will resume funding these activities beginning in the 2003-05 biennium.

Sec. 210. 2001 2nd sp.s. c 14 s 211 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—MANAGEMENT AND SUPPORT SERVICES

Marine Fuel Tax Refund Account—State
 Appropriation \$ ~~((7,000))~~
 3,000

Motorcycle Safety Education Account—
 State Appropriation \$ ~~((114,000))~~
 88,000

Wildlife Account—State Appropriation \$ ~~((89,000))~~
 81,000

Highway Safety Account—State Appropriation \$ ~~((7,740,000))~~
 7,724,000

Highway Safety Account—Federal Appropriation . . \$ 55,000

Motor Vehicle Account—State Appropriation \$ ~~((4,230,000))~~
 4,400,000

Licensing Services Account—State
 Appropriation \$ ~~((123,000))~~
 173,000

TOTAL APPROPRIATION \$ ~~((12,303,000))~~
 12,524,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities referenced:

(1) \$6,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(2) \$14,000 of the motor vehicle account—state appropriation and \$3,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(3) \$26,000 of the motor vehicle account—state appropriation and \$1,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) \$2,000 of the motor vehicle account—state appropriation and \$4,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(5) \$11,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 21I. 2001 2nd sp.s. c 14 s 212 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS

Marine Fuel Tax Refund Account—State		
Appropriation	\$	2,000
Motorcycle Safety Education Account—		
State Appropriation	\$	((50,000))
		<u>13,000</u>
Wildlife Account—State Appropriation	\$	34,000
Highway Safety Account—State Appropriation	\$	((5,655,000))
		<u>5,735,000</u>
<u>Highway Safety Account—Federal Appropriation</u>	<u>\$</u>	<u>31,000</u>
Motor Vehicle Account—State Appropriation	\$	((3,304,000))
		<u>3,695,000</u>
Licensing Services Account—State		
Appropriation	\$	((292,000))
		<u>213,000</u>
TOTAL APPROPRIATION	\$	((9,337,000))

9,723,000

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

(1) The department of licensing shall report to the legislative transportation committees on the progress of the expanded internet service no later than December 15, 2002.

(2) \$4,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$4,000 of the motor vehicle account—state appropriation and \$2,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(4) \$19,000 of the motor vehicle account—state appropriation and \$1,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amounts provided in this subsection shall lapse.

(5) \$1,000 of the motor vehicle account—state appropriation and \$3,000 of the highway safety account—state appropriation are provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(6) \$8,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 212. 2001 2nd sp.s. c 14 s 213 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES

Marine Fuel Tax Refund Account—

State Appropriation	\$	26,000
Wildlife Account—State Appropriation	\$	578,000
Motor Vehicle Account—State Appropriation	\$	((57,043,000))
		<u>58,191,000</u>

Licensing Services Account—State

Appropriation	\$	((3,123,000))
		<u>4,240,000</u>

TOTAL APPROPRIATION	\$	((60,770,000))
		<u>63,035,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for the activities referenced:

(1) \$82,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(2) \$376,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$77,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5354 in the form passed by the legislature. If Senate Bill No. 5354 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) The department shall work cooperatively with the national guard to develop and make available a national guard sticker which may be affixed to a license plate. The stickers shall be available upon application. The department shall charge a fee for the stickers sufficient to defray the costs of production.

(5) The department shall work cooperatively with the Washington state council of fire fighters to develop and make available a fire fighter sticker which may be affixed to a license plate. The stickers shall be available upon application to members of the international association of fire fighters. The department shall charge a fee for the stickers sufficient to defray the costs of production.

(6) \$22,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 213. 2001 2nd sp.s. c 14 s 214 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES

Motorcycle Safety Education Account—

State Appropriation	\$	((2,223,000))
		2,573,000
Highway Safety Account—State Appropriation	\$	((81,366,000))
		82,175,000
<u>Highway Safety Account—Federal Appropriation . .</u>	<u>\$</u>	<u>788,000</u>
TOTAL APPROPRIATION	\$	((83,589,000))
		85,536,000

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

(1) The department of licensing shall prepare a capital project plan adopting a process for using certificates of participation to purchase licensing services

offices if the combined principle and interest payments are the same or less than existing or future leases on comparable facilities.

(2) \$21,000 of the highway safety fund—state appropriation is provided solely for the implementation of Senate Bill No. 6748 in the form passed by the legislature. If Senate Bill No. 6748 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(3) \$36,000 of the highway safety fund—state appropriation is provided solely for the implementation of Senate Bill No. 6814 in the form passed by the legislature. If Senate Bill No. 6814 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(4) \$162,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 6461 in the form passed by the legislature. If Senate Bill No. 6461 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

(5) \$56,000 of the highway safety account—state appropriation is provided solely for the implementation of Senate Bill No. 5626 in the form passed by the legislature. If Senate Bill No. 5626 is not enacted in the form passed by the legislature the amount provided in this subsection shall lapse.

Sec. 214. 2001 2nd sp.s. c 14 s 215 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D—OPERATING

Motor Vehicle Account—State Appropriation	\$	((50,649,000))
		50,644,000
Motor Vehicle Account—Federal Appropriation	\$	400,000
TOTAL APPROPRIATION	\$	((51,049,000))
		51,044,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity: \$3,296,000 of the motor vehicle account—state appropriation is provided solely for the implementation of Engrossed Senate Bill No. 6188.

Sec. 215. 2001 2nd sp.s. c 14 s 216 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—AVIATION—PROGRAM F

Aeronautics Account—State Appropriation	\$	((4,852,000))
		5,349,000
Aircraft Search and Rescue Safety and Education Account—State Appropriation	\$	160,000
TOTAL APPROPRIATION	\$	((5,012,000))
		5,509,000

*Sec. 216. 2001 2nd sp.s. c 14 s 217 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—IMPROVEMENTS—PROGRAM I

Motor Vehicle Account—State Appropriation	\$	((508,936,000)) 417,472,000
Motor Vehicle Account—Federal Appropriation . . .	\$	((219,538,000)) 230,929,000
Motor Vehicle Account—Private/Local Appropriation	\$	((40,904,000)) 48,872,000
<u>Tacoma Narrows Toll Bridge Account—State</u> <u>Appropriation</u>	\$	<u>839,000,000</u>
Special Category C Account—State Appropriation	\$	((72,608,000)) 49,608,000
((Multimodal Transportation Account—State Appropriation	\$	4,880,000))
TOTAL APPROPRIATION	\$	((846,866,000)) 1,585,881,000

The appropriations in this section are provided for the location, design, right of way acquisition, or construction of state highway projects designated as improvements under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The special category C account—state appropriation of ~~((72,608,000))~~ \$49,608,000 includes ~~((63,500,000))~~ \$41,500,000 in proceeds from the sale of bonds authorized in RCW 47.10.812. 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) The department shall report December 1st and June 1st of each year to the senate and the house of representatives transportation committees and the office of financial management on the timing and the scope of work being performed for the regional transit authority known as sound transit. This report shall provide a description of all department activities related to the regional transit authority including investments in state-owned infrastructure.

(3) The motor vehicle account—state appropriation includes ~~((391,637,000))~~ \$348,364,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. 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.

(4) ~~((At least \$554,714,000 of the total appropriation is provided for the construction phase of the improvement program.~~

—(~~5~~) \$4,880,000 of the (~~multimodal transportation~~) motor vehicle account—state appropriation is provided solely for the state program share of freight mobility projects as identified by the freight mobility strategic investment board.

(~~6~~) (5) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department shall not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2002.

(6) The motor vehicle account—state appropriation includes \$3,898,000 in unexpended proceeds from the January 2001 bond sale authorized in RCW 47.10.834 for the Tacoma Narrows bridge project. 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.

(7) The Tacoma narrows toll bridge account—state appropriation includes \$800,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843.

(8) Upon completion of the Vancouver high-occupancy vehicle lanes pilot project that began on October 28, 2001, and concludes October 28, 2002, the department of transportation may only proceed with future high-occupancy vehicle lane projects in counties with a population of 300,000 or more that border the state of Oregon, when vehicle spaces at park and ride lots within the county are two and one-half times the capacity in existence on January 1, 2002, or if the Interstate 5 bridge over the Columbia River is retrofitted to include four southbound general purpose lanes.

*Sec. 216 was partially vetoed. See message at end of chapter.

Sec. 217. 2001 2nd sp.s. c 14 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION ECONOMIC PARTNERSHIPS—PROGRAM K—
OPERATING**

Motor Vehicle Account—State Appropriation \$	(1,153,000)
	1,448,000

The appropriation in this section is subject to the following conditions and limitations: \$300,000 of the motor vehicle account—state appropriation is provided solely for a study of private-public partnerships in transportation. The department of transportation shall provide staff support to a legislative oversight committee that will manage a study of public-private partnerships in transportation. The legislative oversight committee will consist of three members from each caucus in each house of the legislature, appointed by the leadership of the legislators’

respective caucus. The legislative oversight committee shall analyze and make recommendations on: (1) The barriers that prevent the private sector from providing transportation services, which could include ferry, bus, or monorail; (2) the use of public-private partnerships nationally and the experiences of other states in using public-private partnerships; (3) the public-private opportunities for transportation projects in Washington; and (4) the advantages and disadvantages of the financing options available for public-private partnerships. The legislative oversight committee shall report its findings and recommendations to the legislature by December 1, 2003.

Sec. 218. 2001 2nd sp.s. c 14 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE—PROGRAM M

Motor Vehicle Account—State Appropriation	\$	((275,394,000))
		<u>275,380,000</u>
Motor Vehicle Account—Federal Appropriation . . .	\$	512,000
Motor Vehicle Account—Private/Local		
Appropriation	\$	4,067,000
TOTAL APPROPRIATION	\$	((279,973,000))
		<u>279,959,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) If portions of the appropriations in this section are required to fund maintenance work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations will be requested to restore state funding for ongoing maintenance activities.

(2) The department shall request an unanticipated receipt for any federal moneys received for emergency snow and ice removal and shall place an equal amount of the motor vehicle account—state into unallotted status. This exchange shall not affect the amount of funding available for snow and ice removal.

Sec. 219. 2001 2nd sp.s. c 14 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PRESERVATION—PROGRAM P

Motor Vehicle Account—State Appropriation	\$	((90,760,000))
		<u>139,334,000</u>
Motor Vehicle Account—Federal Appropriation . . .	\$	((318,795,000))
		<u>341,124,000</u>
Motor Vehicle Account—Private/Local		
Appropriation	\$	((8,717,000))
		<u>7,202,000</u>
Multimodal Transportation Account—State		

Appropriation	\$	((64,218,000))
		<u>14,000,000</u>
Multimodal Transportation Account—Federal		
Appropriation	\$	((95,682,000))
		<u>56,000,000</u>
TOTAL APPROPRIATION	\$	((578,172,000))
		<u>557,660,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) If portions of the appropriations in this section are required to fund preservation work resulting from major disasters not covered by federal emergency funds such as fire, flooding, and major slides, supplemental appropriations will be requested to restore state funding for ongoing maintenance activities.

(2) ~~The motor vehicle account—state appropriation includes ((\$6,524,000 for earthquake repairs and to match federal emergency relief funds. This amount includes)) \$3,750,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762 for emergency purposes. The transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds for any part of the state appropriation.~~

(3) ~~The motor vehicle account—state appropriation includes \$9,183,000 in proceeds from the sale of bonds authorized by RCW 47.10.843. The transportation commission may authorize the use of current revenues available to the department in lieu of bond proceeds for any part of the state appropriation.~~

(4) The department of transportation is authorized to maximize the use of federal and state funds to implement the provisions of this section.

~~((4) \$471,763,000 of the total appropriation is provided for the construction phase of the preservation program.))~~

(5) The motor vehicle account—federal appropriation and the multimodal transportation account—federal appropriation are transferable between each other to ensure efficient funds management and program delivery.

(6) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2002.

(7) The department of transportation, with approval of the transportation commission, shall expend up to \$3,000,000 of the motor vehicle account—state

appropriation on the incident response program. Spending on other projects within the preservation program shall be adjusted to accommodate these expenditures.

(8) The department of transportation, with approval of the transportation commission, shall expend funds appropriated under this section on the Alaska Way viaduct. Spending on other projects within the preservation program shall be adjusted to accommodate these expenditures.

Sec. 220. 2001 2nd sp.s. c 14 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRAFFIC OPERATIONS—PROGRAM Q—OPERATING

Motor Vehicle Account—State Appropriation	\$	32,402,000
Motor Vehicle Account—Private/Local		
Appropriation	\$	125,000
TOTAL APPROPRIATION	\$	32,527,000

The appropriations in this section are subject to the following conditions and limitations: If Senate Bill No. 5949 is enacted in the form passed by the legislature, \$518,000 of the motor vehicle account—state appropriation shall lapse.

Sec. 221. 2001 2nd sp.s. c 14 s 224 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S

State Patrol Highway Account—State		
Appropriation	\$	926,000
Motor Vehicle Account—State Appropriation	\$	((94,632,000))
		<u>95,755,000</u>
Motor Vehicle Account—Federal Appropriation	\$	2,654,000
Puget Sound Ferry Operations Account—		
State Appropriation	\$	6,642,000
Multimodal Transportation Account—State		
Appropriation	\$	((2,082,000))
		<u>1,397,000</u>
TOTAL APPROPRIATION	\$	((106,936,000))
		<u>107,374,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$67,000 of the motor vehicle account—state appropriation is provided solely for the department of transportation to work jointly with the department of natural resources, the military department, and the Washington state patrol, in coordination with the state interoperability executive committee, on the development and implementation of a secure geographical information system (GIS) database to illustrate locations and specifications of statewide radio and microwave towers.

Sec. 222. 2001 2nd sp.s. c 14 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—
TRANSPORTATION PLANNING, DATA, AND RESEARCH—PROGRAM
T**

Motor Vehicle Account—State Appropriation	\$	((18,250,000))
		<u>11,496,000</u>
Motor Vehicle Account—Federal Appropriation . . .	\$	18,800,000
Multimodal Transportation Account—State Appropriation	\$	987,000
Multimodal Transportation Account—Federal Appropriation	\$	2,000,000
TOTAL APPROPRIATION	\$	((40,037,000))
		<u>33,283,000</u>

The appropriations in this section are subject to the following conditions and limitations and the specified amount is provided solely for that activity:

~~((1))~~ The motor vehicle account—state appropriation includes \$1,000,000 distributed under RCW 46.68.110(2):

~~((a))~~ (1) \$500,000 of the distribution under RCW 46.68.110(2) is to be used solely by the department of transportation to collect and enter collision reports into the statewide collision reporting system for local roadway planning and safety analysis.

~~((b))~~ (2) \$500,000 of the distribution under RCW 46.68.110(2) is provided solely to the department of transportation for the Washington strategic freight transportation analysis. The department shall work with the transportation research center to conduct an origin and destination study to determine the impacts of trade-related truck traffic and other truck impacts on the highway system. The department may also conduct other research elements, including, but not limited to, freight corridor identification, strategic resource access, and road network review.

~~((2))~~ \$6,754,000 of the motor vehicle account—state appropriation is provided for the implementation of Senate Bill No. 5749 in the form enacted by the legislature. If Senate Bill No. 5749 is not enacted in the form passed by the legislature by July 31, 2001, this funding shall lapse.))

Sec. 223. 2001 2nd sp.s. c 14 s 226 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM
OTHER AGENCIES—PROGRAM
U**

Payments in this section represent charges from other state agencies to the department of transportation.

(1) FOR PAYMENT OF DEPARTMENT OF GENERAL ADMINISTRATION OFFICE OF RISK MANAGEMENT FEES

Motor Vehicle Account—State Appropriation	\$	464,000
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Puget Sound Ferry Operations—State

Appropriation \$ 154,000

(2) FOR PAYMENT OF COSTS OF THE OFFICE OF THE STATE AUDITOR

Motor Vehicle Account—State Appropriation \$ ((731,000))

713,000

(3) FOR PAYMENT OF COSTS OF DEPARTMENT OF GENERAL ADMINISTRATION FACILITIES AND SERVICES AND CONSOLIDATED MAIL SERVICES

Motor Vehicle Account—State Appropriation \$ ((4,128,000))

4,047,000

(4) FOR PAYMENT OF COSTS OF THE DEPARTMENT OF PERSONNEL

Motor Vehicle Account—State Appropriation \$ ((2,240,000))

2,237,000

(5) FOR PAYMENT OF SELF-INSURANCE LIABILITY PREMIUMS AND ADMINISTRATION

Motor Vehicle Account—State Appropriation \$ ((13,892,000))

28,755,000

Motor Vehicle Fund—Puget Sound Ferry Operations Account—

State Appropriation \$ 4,204,000

The office of risk management shall evaluate the risk pool premium assessments to ensure that proper tracking, measuring, and reporting methods have been utilized to ensure funding equity has been maintained. "Funding equity" includes but is not limited to demonstrating that premiums assessed to the department of transportation will, over time, not exceed claims paid in order to ensure that premiums paid by the department of transportation are not unconstitutionally expended for nonhighway purposes. The office of risk management shall make a full report of its findings to the legislature no later than January 15, 2002.

(6) FOR PAYMENT OF COSTS OF OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES

Motor Vehicle Account—State Appropriation \$ 251,000

(7) FOR PAYMENT OF THE DEPARTMENT OF GENERAL ADMINISTRATION CAPITAL PROJECTS SURCHARGE

Motor Vehicle Account—State Appropriation \$ 1,547,000

(8) FOR ARCHIVES AND RECORDS MANAGEMENT

Motor Vehicle Account—State Appropriation \$ ((469,000))

457,000

TOTAL APPROPRIATION \$ ((28,080,000))

42,829,000

Sec. 224. 2001 2nd sp.s. c 14 s 227 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—PUBLIC TRANSPORTATION—PROGRAM V

Multimodal Transportation Account—State		
Appropriation	\$	((11,160,000))
		<u>10,960,000</u>
Multimodal Transportation Account—Federal		
Appropriation	\$	3,074,000
Multimodal Transportation Account—		
Private/Local Appropriation	\$	205,000
TOTAL APPROPRIATION	\$	((14,439,000))
		<u>14,239,000</u>

Sec. 225. 2001 2nd sp.s. c 14 s 228 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—WASHINGTON STATE FERRIES CONSTRUCTION—PROGRAM W

Motor Vehicle Account—State		
Appropriation	\$	((144,404,000))
		<u>134,390,000</u>
Motor Vehicle Account—Federal		
Appropriation	\$	37,472,000
Passenger Ferry Account—State Appropriation	\$	1,500,000
Passenger Ferry Account—Federal		
Appropriation	\$	4,000,000
TOTAL APPROPRIATION	\$	((187,376,000))
		<u>177,362,000</u>

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 and specified amounts are provided solely for that activity:

(1) The motor vehicle account—state appropriation includes \$50,000,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 for vessel and terminal acquisition, major and minor improvements, and long lead time materials acquisition for the Washington state ferries. The transportation commission may authorize the use of current revenues available to the motor vehicle account in lieu of bond proceeds for any part of the state appropriation.

(2) Appropriations in this section include funding for the purchase or lease-purchase of one passenger ferry and assume the proceeds of the sale of the MV Kalama and MV Skagit passenger ferries shall be deposited in the passenger ferry account.

(3) The department shall provide staff support to a legislative oversight committee that will manage a study of the Eagle Harbor maintenance facility. The legislative oversight committee shall consist of two members from each caucus in each house of the legislature, appointed by the leadership of the members' respective caucus. The department shall issue a request for proposals on behalf of the legislative oversight committee for an outside consulting firm to conduct a study on the preservation, replacement, or supplementation of the Eagle Harbor maintenance facility. The study must analyze: (a) The costs and benefits to preserve and maintain or relocate the facility; (b) the impact of Eagle Harbor employment on the local community and Kitsap county; and (c) a recommendation on future investment in the Eagle Harbor maintenance facility or possible alternatives. The contractor and the legislative oversight committee must report back to the legislature's transportation committees no later than December 10, 2002.

Sec. 226. 2001 2nd sp.s. c 14 s 229 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X

Puget Sound Ferry Operations Account—State

Appropriation	\$	((321,673,000))
		<u>311,312,000</u>

The appropriation in this section is subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The appropriation is based on the budgeted expenditure of ~~((\$46,881,000))~~ \$35,159,000 for vessel operating fuel in the 2001-2003 biennium. If the actual cost of fuel is less than this budgeted amount, the excess amount may not be expended. If the actual cost exceeds this amount, the department shall request a supplemental appropriation.

(2) The appropriation provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 2001-2003 biennium may not exceed ~~((\$206,696,000))~~ \$207,065,000 plus a dollar amount, as prescribed by the office of financial management, that is equal to any insurance benefit increase granted general government employees in excess of \$432.82 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges, and a dollar amount prescribed by the office of financial management for salary increases during the 2001-2003 biennium. For the purposes of this section, the expenditures for compensation paid to ferry employees shall be limited to salaries and wages and employee benefits as defined in the office of financial management's policies, regulations, and procedures named under objects of expenditure "A" and "B" (7.2.6.2).

The prescribed salary and insurance benefit increase or decrease dollar amount that shall be allocated from the governor's compensation appropriations is in addition to the appropriation contained in this section and may be used to increase or decrease compensation costs, effective July 1, 2001, and thereafter, as established in the 2001-2003 general fund operating budget.

(3) The department shall issue a request for information from entities interested in purchasing advertising on board Washington state ferry vessels. The department shall evaluate the proposals and report back to the legislature's transportation committees in January 2002 regarding the potential for revenue from different types of advertising.

(4) The department may enter into contracts with private vendors to sell ferry tickets and medium at locations other than Washington state ferry terminals or facilities.

(a) The department may enter into the contracts only (i) with private vendors that are already established businesses offering goods for sale to the general public; and (ii) if it determines that the vendor's established location has the potential to serve a significant percentage of the customers using a particular ferry route.

(b) The department may adopt necessary rules and procedures to allow the use of credit and debit cards to purchase ferry tickets or medium from a private vendor who has contracted with the department to sell ferry tickets or medium. The department may establish a convenience fee to be paid by all persons purchasing ferry tickets and medium at locations other than Washington state ferry terminals or facilities. The convenience fee must be sufficient to offset the charges imposed on the department by the credit and debit card companies. In no event may the use of credit or debit cards authorized by this section create a loss of revenue to the state. The use of a personal credit card does not rely upon the credit of the state as prohibited by Article VIII, section 5 of the state Constitution.

(5) ~~((The legislature recognizes that projected revenues to the Puget Sound ferry operating account for the 2001-2003 biennium may be up to \$30,000,000 less than what is required to fund the appropriation provided in this section. The legislature intends to fully evaluate the extent of the shortfall and make a supplemental appropriation during the 2002 legislative session.))~~ The legislature recognizes the value of a regional fare collection system to promote intermodal travel throughout Washington state ferries' Puget Sound service area and therefore encourages the department to resume participation in the regional fare coordination project (smart card). The department shall develop a request for funding of the on-going operating costs associated with the regional fare coordination project and shall present this request to the 2003 legislature. The request for funding shall be sufficient to support a system that prevents the disclosure of personally identifying information of persons who use a smart card to facilitate payment of ferry fares. The requested system may facilitate the disclosure of aggregate information on fare collection to governmental agencies or groups concerned with public transportation or public safety as long as the data does not contain any personally identifying

information. The requested system shall not prevent the release of personally identifying information to law enforcement agencies when required by a subpoena.

Sec. 227. 2001 2nd sp.s. c 14 s 230 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—OPERATING

Multimodal Transportation Account—State

Appropriation	\$	((32,704,000))
		<u>33,001,000</u>

Sec. 228. 2001 2nd sp.s. c 14 s 231 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—RAIL—PROGRAM Y—CAPITAL

Essential Rail Assistance Account—State

Appropriation	\$	((200,000))
		<u>600,000</u>

Multimodal Transportation Account—State

Appropriation	\$	((11,610,000))
		<u>10,710,000</u>

Multimodal Transportation Account—Federal

Appropriation	\$	9,630,000
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Washington Fruit Express Account—State

Appropriation	\$	500,000
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TOTAL APPROPRIATION	\$	((21,940,000))
		<u>21,440,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) \$2,000,000 of the multimodal transportation account—state appropriation is provided solely for the Grays Harbor loop project.

(2) The entire Washington fruit express account is provided solely to promote the shipment of a variety of agricultural products, including, but not limited to, apples, pears, and potatoes.

Sec. 229. 2001 2nd sp.s. c 14 s 232 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—OPERATING

Motor Vehicle Account—State Appropriation	\$	((6,231,000))
		<u>6,383,000</u>

Motor Vehicle Account—Federal Appropriation . . .	\$	2,569,000
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Multimodal Transportation Account—State

Appropriation	\$	150,000
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TOTAL APPROPRIATION	\$	((8,950,000))
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9,102,000

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

(1) The motor vehicle account—state appropriation includes \$150,000 distributed under RCW 46.68.110(2) that is provided to the Whatcom county council of governments for the sole purpose of developing and implementing a model of regional transportation governance. This model shall be developed in accordance with Recommendation 6 of the Blue Ribbon Commission on Transportation’s final report.

The council shall develop a model that can be used in other parts of the state and shall report to the transportation committees in the senate and house of representatives on the positive and negative aspects of the model as well as costs associated with it no later than June 30, 2002.

(2) \$250,000 of the motor vehicle account—state appropriation is provided solely for a study of concurrency issues in urban areas marked by multiple contiguous jurisdictions. The study, lead by the city of Bellevue, will focus on the jurisdictions of Bellevue, Kirkland, Issaquah, and Redmond and will look at existing and unused methodologies for including development in neighboring jurisdictions in concurrency calculations. The study will also investigate what changes in state and local laws are needed in order to provide a more effective way of dealing with concurrency issues. By November 1, 2003, a report of the findings will be made to the transportation committees of the legislature. The appropriation in this subsection shall lapse unless the participating cities provide \$100,000 for the study. To the extent possible, state funding for this subsection shall utilize funds allocated under RCW 46.68.110(2).

(3) Up to \$500,000 of the motor vehicle account—state appropriation is provided solely for the study of alternatives for repairing or replacing the Seattle sea wall. The department’s expenditure of funds provided in this subsection may not exceed the matching contribution provided by the city of Seattle for the study.

Sec. 230. 2001 2nd sp.s. c 14 s 233 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z—CAPITAL

Motor Vehicle Account—State Appropriation	\$	((77,371,000))
		<u>77,221,000</u>
Highway Infrastructure Account—State		
Appropriation	\$	234,000
Highway Infrastructure Account—Federal		
Appropriation	\$	1,500,000
Urban Arterial Trust Account—State		
Appropriation	\$	((4,674,000))
		<u>4,332,000</u>
Multimodal Transportation Account—State		

Appropriation	\$	((10,150,000))
		<u>10,300,000</u>
TOTAL APPROPRIATION	\$	((93,929,000))
		<u>93,587,000</u>

The appropriations in this section are subject to the following conditions and limitations and specified amounts are provided solely for that activity:

~~((2))~~ (1) \$10,000,000 of the multimodal transportation account—state appropriation is provided solely to fund the first phase of a multiphase cooperative project with the state of Oregon to dredge the Columbia river. The department shall not expend the appropriation in this section unless agreement on ocean disposal sites has been reached which protects the state’s commercial crab fishery. The amount provided in this subsection shall lapse unless the state of Oregon appropriates a dollar-for-dollar match to fund its share of the project.

~~((3))~~ (2) The motor vehicle account—state appropriation includes ~~((12,000,000))~~ \$46,090,000 in proceeds from the sale of bonds authorized by RCW 47.10.843 in addition to \$16,420,000 in unexpended proceeds from the January 2001 sale. 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.

~~((4))~~ (3) \$4,159,000 of the motor vehicle account—state appropriation is provided solely for additional small city pavement preservation program grants, to be administered by the department’s highways and local programs division.

~~((5))~~ (4) \$2,000,000 of the motor vehicle account—state appropriation is provided solely for additional traffic and pedestrian safety improvements near schools. The highways and local programs division within the department of transportation shall administer this program.

(5) To manage some projects more efficiently, federal funds may be transferred from program Z to programs I and P and state funds shall be transferred from programs I and P to program Z to replace those federal funds in a dollar-for-dollar match. Fund transfers authorized under this subsection shall not affect project prioritization status. Appropriations shall initially be allotted as appropriated in this act. The department may not transfer funds as authorized under this subsection without approval of the transportation commission and the director of financial management. The department shall submit a report on those projects receiving fund transfers to the transportation committees of the senate and house of representatives by December 1, 2002.

TRANSPORTATION AGENCIES CAPITAL FACILITIES

Sec. 301. 2001 2nd sp.s. c 14 s 301 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE PATROL

State Patrol Highway Account—State		
Appropriation	\$	780,000
Motor Vehicle Account—State Appropriation	\$	((2,705,000))
		<u>1,830,000</u>
TOTAL APPROPRIATION	\$	((3,485,000))
		<u>2,610,000</u>

TRANSFERS AND DISTRIBUTIONS

Sec. 401. 2001 2nd sp.s. c 14 s 401 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALES DISCOUNTS AND DEBT TO BE PAID BY MOTOR VEHICLE FUND AND TRANSPORTATION FUND REVENUE

Highway Bond Retirement Account Appropriation	\$	((207,900,000))
		<u>208,206,000</u>
Ferry Bond Retirement Account Appropriation . . .	\$	((48,675,000))
		<u>52,473,000</u>
Transportation Improvement Board Bond Retirement Account—State Appropriation	\$	40,856,000
Motor Vehicle Account—State Appropriation	\$	((4,537,000))
		<u>4,588,000</u>
Special Category C Account—State Appropriation .	\$	((635,000))
		<u>631,000</u>
Transportation Improvement Account—State Appropriation	\$	((473,000))
		<u>340,000</u>
TOTAL APPROPRIATION	\$	((303,076,000))
		<u>307,094,000</u>

Sec. 402. 2001 2nd sp.s. c 14 s 402 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES AND FISCAL AGENT CHARGES

Motor Vehicle Account—State Appropriation	\$	((450,000))
		<u>459,000</u>
Special Category C Account Appropriation	\$	((63,000))
		<u>41,000</u>
Transportation Improvement Account—State		

Appropriation	\$	((47,000))
		<u>34,000</u>
TOTAL APPROPRIATION	\$	((560,000))

534,000

Sec. 403. 2001 2nd sp.s. c 14 s 403 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

((Motor Vehicle Account Appropriation for motor vehicle fuel tax refunds and distributions	\$	458,895,000))
Motor Vehicle Account Appropriation for motor vehicle fuel tax distributions to cities and counties	\$	((428,546,000))
		<u>428,981,000</u>

((Motor Vehicle Account Appropriation for license, permit, and fee distribution to other accounts	\$	349,936,000))
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*Sec. 404. 2001 2nd sp.s. c 14 s 406 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—TRANSFERS

(1) RV Account—State Appropriation:

For transfer to the Motor Vehicle Fund—State	\$	((1,135,000))
		<u>1,344,000</u>

The department of transportation shall only transfer funds provided under subsection (1) of this section on an as-needed basis.

(2) Public Transportation Systems Account—State Appropriation: For transfer to the

Multimodal Transportation Account—State	\$	1,911,000
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(3) State Patrol Highway Account—State Appropriation: For transfer to the Motor Vehicle Account

	\$	((38,657,000))
		<u>48,657,000</u>

(4) Motor Vehicle Account—State Appropriation: For motor vehicle fuel tax refunds and transfers

	\$	<u>453,279,000</u>
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(5) Motor Vehicle Account—State Appropriation: For license, permit, and fee transfers to other accounts

	\$	<u>350,669,000</u>
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(6) Urban Arterial Trust Account—State Appropriation: For transfer of excess City Hardship Assistance Program revenues to

<u>cities</u>	\$	<u>1,500,000</u>
<u>(7) Highway Safety Account—State</u>		
<u>Appropriation: For transfer to the multimodal</u>		
<u>transportation account</u>	\$	<u>20,000,000</u>
<u>(8) Motor Vehicle Account—State</u>		
<u>Appropriation: For transfer to the Tacoma</u>		
<u>Narrows toll bridge account</u>	\$	<u>839,000,000</u>
<u>(9) Highway Safety Account—State</u>		
<u>Appropriation: For transfer to the motor</u>		
<u>vehicle account—state</u>	\$	<u>\$5,000,000</u>

((If House Bill No. 2216 or Senate Bill No. 5078 is enacted in the form passed by the legislature, the \$38,737,000 transfer from the state patrol highway account—state to the motor vehicle account is null and void. If neither House Bill No. 2216 nor Senate Bill No. 5078 is enacted in the form passed by the legislature, the state treasurer shall transfer funds from the state patrol highway account to the motor vehicle account on a quarterly basis.)) (1) If Senate Bill No. 6814 is enacted in the form passed by the legislature, \$16,191,000 of the transfer from the Washington state patrol account—state to the motor vehicle account—state shall lapse. The state treasurer shall perform the transfers from the state patrol highway account to the motor vehicle account on a quarterly basis.

(2) The department of transportation is authorized to sell up to \$800,000,000 in bonds authorized by RCW 47.10.843 for the Tacoma Narrows bridge project. Proceeds from the sale of the bonds shall be deposited into the motor vehicle account. The department of transportation shall inform the treasurer of the amount to be deposited.

*Sec. 404 was partially vetoed. See message at end of chapter.

Sec. 405. 2001 2nd sp.s. c 14 s 407 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFERS

<u>(1) Motor Vehicle Fund—State Appropriation:</u>		
<u>For transfer to Puget Sound Ferry Operations</u>		
<u>Account</u>	\$	<u>((27,000,000))</u>
		<u>38,300,000</u>
<u>(2) Advanced Right of Way Revolving Account</u>		
<u>Appropriation: For transfer to the Motor</u>		
<u>Vehicle Fund</u>	\$	<u>15,000,000</u>

PROVISIONS NECESSARY TO IMPLEMENT APPROPRIATIONS

NEW SECTION. **Sec. 501.** 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. 502.** The following bills are necessary to implement this act: Senate Bill No. 6814 in the form enacted by the legislature.

Sec. 503. 2000 2nd sp.s. c 1 s 724 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—REGIONAL TRANSIT AUTHORITY. (1) The sum of twelve million seven hundred thousand dollars is appropriated from the general fund—state for fiscal year 2001 solely for allocation to Sound Transit regional transit authority for the King street rail maintenance facility to be built in partnership with Amtrak. The appropriation in this subsection is conditioned on the execution of agreements between the department of transportation, Amtrak, Sound Transit, and other participating parties that will assure that the maintenance and operation of the maintenance facility will not require state funding except for billings for maintenance of state-owned passenger trains.

(2) The sum of fifteen million dollars is appropriated from the state general fund for fiscal year 2000 solely for allocation to Sound Transit regional transit authority as a state contribution to the extension of Sounder passenger rail service to Everett.

(3) The amounts appropriated in this section constitute a transfer of local government costs under RCW 43.135.060(2).

NEW SECTION. **Sec. 504.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed the House March 14, 2002.

Passed the Senate March 14, 2002.

Approved by the Governor April 4, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

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

"I am returning herewith, without my approval as to subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34, Engrossed Substitute House Bill No. 2451 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Subsections 208(4) and 208(5), pages 9-10 (Washington State Patrol--Support Services Bureau)

Subsections 4 and 5 of section 208 would have required the Washington State Patrol to contract with an independent consulting firm to develop a cost allocation system to qualify activities as "highway purposes" under Article II, Section 40 of the State Constitution - the 18th amendment - and that such findings shall be utilized in the development of the agency's 2003-05 budget request.

No additional funds were provided to conduct this study. In addition, the competitive selection of a consulting firm, familiarizing the contractor with agency programs, and the development of a cost allocation system would involve many agency staff members, and could not be done quickly. It is unlikely a thoughtful product could be developed within the time frame required in the proviso.

While I have vetoed these subsections, I direct the Washington State Patrol to provide the Legislative Transportation Committee with an overview of its application of the constitutional limitations imposed on the spending of 18th amendment funds. This is of paramount importance in maintaining the integrity and sustainability of the Patrol's budget, given the large influx of one-time transportation funds to offset what had been omnibus appropriations.

Subsection 216(8), pages 17-18 (Department of Transportation—Improvements—Program I)

Subsection 216(8) would have prevented state investment in high-occupancy vehicle (HOV) lanes in Clark County until there are two and one-half times as many park and ride lot vehicle spaces as were in existence on January 1, 2002, or until the I-5 bridge is retrofitted to include four southbound general-purpose lanes.

The provisions outlined in this subsection would unnecessarily limit the criteria by which decisions to move forward with future HOV lanes in Clark County should be made. The Department of Transportation (DOT) is currently conducting a pilot project in Clark County to evaluate the effectiveness of HOV lanes on Interstate 5. I have vetoed this subsection to provide the DOT, the City of Vancouver, and the Regional Transportation Council of Clark County the opportunity to consider the results of the pilot project and other factors, such as lane usage, before the decision to continue HOV lane projects in Clark County is made.

Subsection 404(5), page 34 (For the State Treasurer—Transfers)

Subsection 404(5) would provide the State Treasurer with the authority to distribute license, permit, and fee revenues from the Motor Vehicle Account to other accounts. The collection and distribution of these revenues, however, is already authorized in statute for the Department of Licensing and the Department of Transportation. This provision would have been in conflict with existing statutory direction.

For these reasons, I have vetoed subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34 of Engrossed Substitute House Bill No. 2451.

With the exception of subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34, Engrossed Substitute House Bill No. 2451 is approved."

CHAPTER 360

[Engrossed Substitute House Bill 2544]

INSURANCE—CREDIT HISTORY

AN ACT Relating to using credit history for insurance purposes; adding a new section to chapter 48.18 RCW; adding a new section to chapter 48.19 RCW; and creating new sections.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.18 RCW to read as follows:

UNDERWRITING RESTRICTIONS THAT APPLY TO PERSONAL INSURANCE. (1) For the purposes of this section:

(a) "Adverse action" has the same meaning as defined in the fair credit reporting act, 15 U.S.C. Sec. 1681 et seq. Adverse actions include, but are not limited to:

(i) Cancellation, denial, or nonrenewal of personal insurance coverage;

(ii) Charging a higher insurance premium for personal insurance than would have been offered if the credit history or insurance score had been more favorable, whether the charge is by:

(A) Application of a rating rule;

(B) Assignment to a rating tier that does not have the lowest available rates;

or

(C) Placement with an affiliate company that does not offer the lowest rates available to the consumer within the affiliate group of insurance companies; or

(iii) Any reduction, adverse, or unfavorable change in the terms of coverage or amount of any personal insurance due to a consumer's credit history or insurance score. A reduction, adverse, or unfavorable change in the terms of coverage occurs when:

(A) Coverage provided to the consumer is not as broad in scope as coverage requested by the consumer but available to other insureds of the insurer or any affiliate; or

(B) The consumer is not eligible for benefits such as dividends that are available through affiliate insurers.

(b) "Affiliate" has the same meaning as defined in RCW 48.31B.005(1).

(c) "Consumer" means an individual policyholder or applicant for insurance.

(d) "Consumer report" has the same meaning as defined in the fair credit reporting act, 15 U.S.C. Sec. 1681 et seq.

(e) "Credit history" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity that is used or expected to be used, or collected in whole or in part, for the purpose of serving as a factor in determining personal insurance premiums or eligibility for coverage.

(f) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history.

(g) "Personal insurance" means:

(i) Private passenger automobile coverage;

(ii) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage;

(iii) Dwelling property coverage;

(iv) Earthquake coverage for a residence or personal property;

(v) Personal liability and theft coverage;

(vi) Personal inland marine coverage; and

(vii) Mechanical breakdown coverage for personal auto or home appliances.

(h) "Tier" means a category within a single insurer into which insureds with substantially like insuring, risk or exposure factors, and expense elements are placed for purposes of determining rate or premium.

(2) An insurer that takes adverse action against a consumer based in whole or in part on credit history or insurance score shall provide written notice to the applicant or named insured. The notice must state the significant factors of the credit history or insurance score that resulted in the adverse action. The insurer shall also inform the consumer that the consumer is entitled to a free copy of their consumer report under the fair credit reporting act.

(3) An insurer shall not cancel or nonrenew personal insurance based in whole or in part on a consumer's credit history or insurance score. An offer of placement with an affiliate insurer does not constitute cancellation or nonrenewal under this section.

(4) An insurer may use credit history to deny personal insurance only in combination with other substantive underwriting factors. For the purposes of this subsection:

(a) "Deny" means an insurer refuses to offer insurance coverage to a consumer;

(b) An offer of placement with an affiliate insurer does not constitute denial of coverage; and

(c) An insurer may reject an application when coverage is not bound or cancel an insurance contract within the first sixty days after the effective date of the contract.

(5) Insurers shall not deny personal insurance coverage based on:

(a) The absence of credit history or the inability to determine the consumer's credit history, if the insurer has received accurate and complete information from the consumer;

(b) The number of credit inquiries;

(c) Credit history or an insurance score based on collection accounts identified with a medical industry code;

(d) The initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history, if evident from the consumer report; however, an insurer may consider the bill payment history of any loan, the total number of loans, or both;

(e) The consumer's use of a particular type of credit card, charge card, or debit card; or

(f) The consumer's total available line of credit; however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

(6)(a) If disputed credit history is used to determine eligibility for coverage and a consumer is placed with an affiliate that charges higher premiums or offers less favorable policy terms:

(i) The insurer shall reissue or reate the policy retroactive to the effective date of the current policy term; and

(ii) The policy, as reissued or rerated, shall provide premiums and policy terms the consumer would have been eligible for if accurate credit history had been used to determine eligibility.

(b) This subsection only applies if the consumer resolves the dispute under the process set forth in the fair credit reporting act and notifies the insurer in writing that the dispute has been resolved.

(7) The commissioner may adopt rules to implement this section.

(8) This section applies to all personal insurance policies issued or renewed after January 1, 2003.

NEW SECTION. Sec. 2. A new section is added to chapter 48.19 RCW to read as follows:

MAKING OF RATES—PERSONAL INSURANCE. (1) For the purposes of this section:

(a) "Consumer" means an individual policyholder or applicant for insurance.

(b) "Credit history" means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, or credit capacity that is used or expected to be used, or collected in whole or in part, for the purpose of serving as a factor in determining personal insurance premiums or eligibility for coverage.

(c) "Insurance score" means a number or rating that is derived from an algorithm, computer application, model, or other process that is based in whole or in part on credit history.

(d) "Personal insurance" means:

(i) Private passenger automobile coverage;

(ii) Homeowner's coverage, including mobile homeowners, manufactured homeowners, condominium owners, and renter's coverage;

(iii) Dwelling property coverage;

(iv) Earthquake coverage for a residence or personal property;

(v) Personal liability and theft coverage;

(vi) Personal inland marine coverage; and

(vii) Mechanical breakdown coverage for personal auto or home appliances.

(2) Credit history shall not be used to determine personal insurance rates, premiums, or eligibility for coverage unless the insurance scoring models are filed with the commissioner. Insurance scoring models include all attributes and factors used in the calculation of an insurance score. RCW 48.19.040(5) does not apply to any information filed under this subsection, and the information shall be withheld from public inspection and kept confidential by the commissioner. All information filed under this subsection shall be considered trade secrets under RCW 48.02.120(3). Information filed under this subsection may be made public by the commissioner for the sole purpose of enforcement actions taken by the commissioner.

(3) Insurers shall not use the following types of credit history to calculate a personal insurance score or determine personal insurance premiums or rates:

(a) The absence of credit history or the inability to determine the consumer's credit history, unless the insurer has filed actuarial data segmented by demographic factors in a manner prescribed by the commissioner that demonstrates compliance with RCW 48.19.020;

(b) The number of credit inquiries;

(c) Credit history or an insurance score based on collection accounts identified with a medical industry code;

(d) The initial purchase or finance of a vehicle or house that adds a new loan to the consumer's existing credit history, if evident from the consumer report; however, an insurer may consider the bill payment history of any loan, the total number of loans, or both;

(e) The consumer's use of a particular type of credit card, charge card, or debit card; or

(f) The consumer's total available line of credit; however, an insurer may consider the total amount of outstanding debt in relation to the total available line of credit.

(4) If a consumer is charged higher premiums due to disputed credit history, the insurer shall redate the policy retroactive to the effective date of the current policy term. As rerated, the consumer shall be charged the same premiums they would have been charged if accurate credit history was used to calculate an insurance score. This subsection applies only if the consumer resolves the dispute under the process set forth in the fair credit reporting act and notifies the insurer in writing that the dispute has been resolved.

(5) The commissioner may adopt rules to implement this section.

(6) This section applies to all personal insurance policies issued or renewed on or after June 30, 2003.

NEW SECTION. Sec. 3. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 4. The commissioner shall report to the legislature by January 1, 2004, on issues related to the use of credit history in personal insurance underwriting and rating and the implementation of this act. The report must include:

(1) A review of how this act has been implemented and how it has impacted consumers; and

(2) A review and analysis of insurance scoring that is due to the legislature by January 1, 2003, which includes, but is not limited to:

(a) Which types of consumers, based on demographic factors, benefit from or are harmed by the use of credit history in personal insurance rating and underwriting;

(b) The extent to which the use of credit history affects rates charged to the consumer;

(c) Whether insurance scoring results in discrimination against a protected class of people or the poor; and

(d) Other issues as determined by the commissioner.

Passed the House February 18, 2002.
Passed the Senate March 5, 2002.
Approved by the Governor April 4, 2002.
Filed in Office of Secretary of State April 4, 2002.

CHAPTER 361

[Second Substitute House Bill 2867]

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT

AN ACT Relating to mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as a result of a recent federal court decision; amending RCW 90.48.465; 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 recent federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) imposes a duty to obtain a national pollutant discharge elimination system permit under the clean water act for the application of pesticides to irrigation canals. This duty is also extended to other individuals and organizations that apply pesticides to other waters, where no duty existed before the *Talent* decision.

The legislature finds that the costs associated with the issuance of the national pollutant discharge elimination system permit now required by the department of ecology as a result of the federal decision is burdensome to the affected individuals and organizations. The legislature intends to temporarily reduce the burden of the federal decision on those individuals and organizations.

Sec. 2. RCW 90.48.465 and 1998 c 262 s 16 are each amended to read as follows:

(1) The department shall establish annual fees to collect expenses for issuing and administering each class of permits under RCW 90.48.160, 90.48.162, and 90.48.260. An initial fee schedule shall be established by rule (~~within one year of March 1, 1989, and thereafter the fee schedule shall~~) and be adjusted no more often than once every two years. This fee schedule shall apply to all permits, regardless of date of issuance, and fees shall be assessed prospectively. All fees charged shall be based on factors relating to the complexity of permit issuance and compliance and may be based on pollutant loading and toxicity and be designed to encourage recycling and the reduction of the quantity of pollutants. Fees shall be established in amounts to fully recover and not to exceed expenses incurred by the department in processing permit applications and modifications, monitoring and evaluating compliance with permits, conducting inspections, securing laboratory analysis of samples taken during inspections, reviewing plans and documents directly related to operations of permittees, overseeing performance of delegated pretreatment programs, and supporting the overhead expenses that are directly related to these activities.

(2) The annual fee paid by a municipality, as defined in 33 U.S.C. Sec. 1362, for all domestic wastewater facility permits issued under RCW 90.48.162 and 90.48.260 shall not exceed the total of a maximum of fifteen cents per month per residence or residential equivalent contributing to the municipality's wastewater system. ~~((The department shall adopt by rule a schedule of credits for any municipality engaging in a comprehensive monitoring program beyond the requirements imposed by the department, with the credits available for five years from March 1, 1989, and with the total amount of all credits not to exceed fifty thousand dollars in the five-year period.))~~

(3) The department shall ensure that indirect dischargers do not pay twice for the administrative expense of a permit. Accordingly, administrative expenses for permits issued by a municipality under RCW 90.48.165 are not recoverable by the department.

(4) In establishing fees, the department shall consider the economic impact of fees on small dischargers and the economic impact of fees on public entities required to obtain permits for storm water runoff and shall provide appropriate adjustments.

(5) The fee for an individual permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to ~~((one thousand one hundred sixty-seven dollars for fiscal year 1998 and))~~ one thousand two hundred fourteen dollars for fiscal year 1999. The fee for a general permit issued for a dairy farm as defined under chapter 90.64 RCW shall be fifty cents per animal unit up to ~~((eight hundred seventeen dollars for fiscal year 1998 and))~~ eight hundred fifty dollars for fiscal year 1999. Thereafter, these fees may rise in accordance with the fiscal growth factor as provided in chapter 43.135 RCW.

(6) The fee for a general permit or an individual permit developed solely as a result of the federal court of appeals decision in *Headwaters, Inc. v. Talent Irrigation District*, 243 F.3rd 526 (9th Cir. 2001) is limited, until June 30, 2003, to a maximum of three hundred dollars. Such a permit is required only, and as long as, the interpretation of this court decision is not overturned or modified by future court rulings, administrative rule making, or clarification of scope by the United States environmental protection agency or legislative action. In such a case the department shall take appropriate action to rescind or modify these permits.

(7) All fees collected under this section shall be deposited in the water quality permit account hereby created in the state treasury. Moneys in the account may be appropriated only for purposes of administering permits under RCW 90.48.160, 90.48.162, and 90.48.260.

~~((7) Beginning with the biennium ending June 30, 1997,)) (8) The department shall present a biennial progress report on the use of moneys from the account to the legislature. The report will be due December 31st of odd-numbered years. The report shall consist of information on fees collected, actual expenses incurred, and anticipated expenses for the current and following fiscal years.~~

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

Passed the House March 13, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 362

[Substitute House Bill 2895]

PORT EMPLOYEES—RETIREMENT PLANS

AN ACT Relating to allowing port employees to join more than one retirement plan subject to a labor agreement; and amending RCW 53.08.170.

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

Sec. 1. RCW 53.08.170 and 1991 sp.s. c 30 s 22 are each amended to read as follows:

The port commission shall have authority to create and fill positions, to fix wages, salaries and bonds thereof, to pay costs and assessments involved in securing or arranging to secure employees, and to establish such benefits for employees, including holiday pay, vacations or vacation pay, retirement and pension benefits, medical, surgical or hospital care, life, accident, or health disability insurance, and similar benefits, already established by other employers of similar employees, as the port commissioner shall by resolution provide: **PROVIDED**, That any district providing insurance benefits for its employees in any manner whatsoever may provide health and accident insurance, life insurance with coverage not to exceed that provided district employees, and business related travel, liability, and errors and omissions insurance, for its commissioners, which insurance shall not be considered to be compensation.

Subject to chapter 48.62 RCW, the port commission shall have authority to provide or pay such benefits directly, or to provide for such benefits by the purchase of insurance policies or entering into contracts with and compensating any person, firm, agency or organization furnishing such benefits, or by making contributions to vacation plans or funds, or health and welfare plans and funds, or pension plans or funds, or similar plans or funds, already established by other employers of similar employees and in which the port district is permitted to participate for particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds: **PROVIDED FURTHER**, That no port district employee shall be allowed to apply for admission to or be accepted as a member of the state employees' retirement system after January 1, 1965, if admission to such system would result in coverage under both a private pension system and the state employees' retirement system, it being the purpose of this proviso that port districts shall not at the same time

contribute for any employee to both a private pension or retirement plan and to the state employees' retirement system. The port commission shall have authority by resolution to utilize and compensate agents for the purpose of paying, in the name and by the check of such agent or agents or otherwise, wages, salaries and other benefits to employees, or particular classifications thereof, and for the purpose of withholding payroll taxes and paying over tax moneys so withheld to appropriate government agencies, on a combined basis with the wages, salaries, benefits, or taxes of other employers or otherwise; to enter into such contracts and arrangements with and to transfer by warrant such funds from time to time to any such agent or agents so appointed as are necessary to accomplish such salary, wage, benefit, or tax payments as though the port district were a private employer, notwithstanding any other provision of the law to the contrary. The funds of a port district transferred to such an agent or agents for the payment of wages or salaries of its employees in the name or by the check of such agent or agents shall be subject to garnishment with respect to salaries or wages so paid, notwithstanding any provision of the law relating to municipal corporations to the contrary.

Notwithstanding any provision in this section, the governing body of a port district may enter into an agreement in writing with one or more of its officers or employees or a group of such officers and employees, authorizing deductions from the officer's or employee's salary or wages of the amount of any premium specified in writing by the officer or employee, for contribution to any private pension plan, without loss of eligibility for membership in the state employees' retirement system, and may agree to remit that amount to the management of such private pension plan. However, no port district funds shall be contributed or paid to such private plan. When such authorized deductions are certified by the port commission to the port district's auditor, the auditor shall draw and issue a proper warrant or warrants, or check or checks if that method of payment is authorized by statute, directly to and in favor of the person, firm, corporation, or organization named in the authorization, for the total amount authorized to be deducted from the payroll, together with a list identifying the officers and employees for whom the payment is made.

Nothing in this section may be invoked to invalidate any private pension plan or any public or private contributions or payments thereto, or exclude members of any such private pension plan from membership in the state employees' retirement system, if such private plan was in operation on December 31, 2001.

Passed the House February 14, 2002.

Passed the Senate March 5, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 363

[Third Substitute Senate Bill 5514]
PUBLIC FACILITIES DISTRICTS

AN ACT Relating to public facilities districts; amending RCW 35.57.010, 35.57.020, 82.14.390, and 35.21.280; and adding a new section to chapter 35.57 RCW.

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

Sec. 1. RCW 35.57.010 and 1999 c 165 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(2)(a) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, shall be coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries shall not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by ~~((a))~~ a contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative authority

based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative authority based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection shall be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(4) 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.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any ~~((metropolitan {public}))~~ public facilities district purported to be authorized or

created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 1999 c 165 s 2 are each amended to read as follows:

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(2) 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 for the purpose of a regional center.

(3) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(4) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(5) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

****NEW SECTION. Sec. 3. A new section is added to chapter 35.57 RCW to read as follows:***

(1) A public facilities district that has constructed a regional center after the effective date of this section is eligible for a refund of the taxes paid under chapters 82.08, 82.12, and 82.14 RCW on site preparation and construction of buildings or other structures, and the acquisition of related machinery and equipment, for the regional center, including labor and services rendered in the planning, installation, and construction of the center and installation of machinery and equipment. A public facilities district is not eligible for the

refund under this section unless an economic benefits analysis has been completed for the regional center project.

(2)(a)(i) The public facilities district shall notify the department in writing that the regional center is operationally complete. The regional center is deemed operationally complete if it has an occupancy permit and it is generating revenues from use of the center. The taxes shall be refunded to the public facilities district in four equal annual payments. Subject to (a)(ii) of this subsection, the first payment shall occur no later than one hundred twenty days after the department verifies that the regional center is operationally complete. The three subsequent annual payments shall occur twelve months later, respectively.

(ii) In no event may any taxes be refunded before January 1, 2006.

(b) The public facilities district shall provide the department of revenue with invoice details and other information as required by the department in order to determine the amount of tax to be refunded. The refund includes any interest on taxes. The department of revenue shall be compensated for the administration of this section out of the interest amount, such compensation not to exceed one percent of the interest. The refund amounts shall be distributed from the funds and accounts into which the taxes were deposited. The department of revenue shall notify the state treasurer of the amounts to be distributed from each specific state and local fund or account.

(3) Applications and any other information received by the department of revenue under this section are not confidential and are subject to disclosure. Chapter 82.32 RCW applies to the administration of this section.

**Sec. 3 was vetoed. See message at end of chapter.*

Sec. 4. RCW 82.14.390 and 1999 c 165 s 13 are each amended to read as follows:

(1) Except as provided in subsection (6) of this section, the governing body of a public facilities district created before July 31, 2002, under chapter 35.57 or 36.100 RCW that commences construction of a new regional center, or improvement or rehabilitation of an existing new regional center, before January 1, ~~((2003)) 2004~~, may impose a sales and use tax in accordance with the terms of this chapter. The tax is in addition to other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax shall not exceed 0.033 percent of the selling price in the case of a sales tax or value of the article used in the case of a use tax.

(2) The tax imposed under subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid over to the department of revenue under chapter 82.08 or 82.12 RCW. The department of revenue shall perform the collection of such taxes on behalf of the county at no cost to the public facilities district.

(3) No tax may be collected under this section before August 1, 2000. The tax imposed in this section shall expire when the bonds issued for the construction of the regional center and related parking facilities are retired, but not more than twenty-five years after the tax is first collected.

(4) Moneys collected under this section shall only be used for the purposes set forth in RCW 35.57.020 and must be matched with an amount from other public or private sources equal to thirty-three percent of the amount collected under this section, provided that amounts generated from nonvoter approved taxes authorized under chapter 35.57 RCW or nonvoter approved taxes authorized under chapter 36.100 RCW shall not constitute a public or private source. For the purpose of this section, public or private sources includes, but is not limited to cash or in-kind contributions used in all phases of the development or improvement of the regional center, land that is donated and used for the siting of the regional center, cash or in-kind contributions from public or private foundations, or amounts attributed to private sector partners as part of a public and private partnership agreement negotiated by the public facilities district.

(5) The combined total tax levied under this section shall not be greater than 0.033 percent. If both a public facilities district created under chapter 35.57 RCW and a public facilities district created under chapter 36.100 RCW impose a tax under this section, the tax imposed by a public facilities district created under chapter 35.57 RCW shall be credited against the tax imposed by a public facilities district created under chapter 36.100 RCW.

(6) A public facilities district created under chapter 36.100 RCW is not eligible to impose the tax under this section if the legislative authority of the county where the public facilities district is located has imposed a sales and use tax under RCW 82.14.0485 or 82.14.0494.

Sec. 5. RCW 35.21.280 and I999 c 165 s 19 are each amended to read as follows:

(1) Every city and town may levy and fix a tax of not more than one cent on twenty cents or fraction thereof to be paid by the person who pays an admission charge to any place: PROVIDED, No city or town shall impose such tax on persons paying an admission to any activity of any elementary or secondary school or any public facility of a public facility district under chapter 35.57 or 36.100 RCW for which a tax is imposed under RCW 35.57.100 or 36.100.210(~~(-This))~~, except the city or town may impose a tax on persons paying an admission to any activity of such public facility if the city or town uses the admission tax revenue it collects on the admission charges to that public facility for the construction, operation, maintenance, repair, replacement, or enhancement of that public facility or to develop, support, operate, or enhance programs in that public facility.

(2) Tax authorization under this section includes 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 privileges or accommodations. A city that is located in a county with a population of one million or more may not

levy a tax on events in stadia constructed on or after January 1, 1995, that are owned by a public facilities district under chapter 36.100 RCW and that have seating capacities over forty thousand. The city or town may require anyone who receives payment for an admission charge to collect and remit the tax to the city or town.

(3) The term "admission charge" includes:

((1)) (a) A charge made for season tickets or subscriptions;

((2)) (b) A cover charge, or a charge made for use of seats and tables reserved or otherwise, and other similar accommodations;

((3)) (c) A charge made for food and refreshment in any place where free entertainment, recreation or amusement is provided;

((4)) (d) A charge made for rental or use of equipment or facilities for purposes of recreation or amusement; if 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;

((5)) (e) Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile.

Passed the Senate March 14, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 4, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

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

"I am returning herewith, without my approval as to section 3, Third Substitute Senate Bill No. 5514 entitled:

"AN ACT Relating to public facilities districts;"

This legislation expands the ability of local governments to construct facilities for community and sporting events, trade shows, conventions, and the like. These regional centers can play an important role in the development of downtown areas. I support this bill with the deadline extensions and tools it provides to local governments.

However, I do not agree with section 3 of the bill. That section would have provided for a refund of sales and use taxes on the construction of any regional center that is built after the effective date of the bill. We continue to collect sales and use taxes on the construction of virtually all other public facilities — including schools, universities, and city and county government buildings, with few, very limited exceptions. Refunding sales and use taxes on the construction of the projects described in this bill would create an undesirable policy precedent, and would have a significant fiscal impact that cannot be sustained during these times of budgetary difficulty. Additionally, I cannot in good conscience commit a future legislature to the significant loss of revenue that would occur when these refunds would have come due in 2006.

For these reasons, I have vetoed section 3 of Third Substitute Senate Bill No. 5514.

With the exception of section 3, Third Substitute Senate Bill No. 5514 is approved."

CHAPTER 364

[Senate Bill 6609]

DEPARTMENT OF ECOLOGY—STUDIES

AN ACT Relating to studies conducted by the department of ecology; and amending RCW 43.21A.130.

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

***Sec. 1.** RCW 43.21A.130 and 1987 c 505 s 28 are each amended to read as follows:

(1) In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air(~~(- PROVIDED, That))~~; however, in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action.

(2)(a) Any studies conducted by the department to establish the total maximum daily load of a water body under chapter 90.48 RCW must involve meaningful participation and opportunities to comment by the local watershed planning group established in chapter 90.82 RCW, the local governments whose jurisdictions are within the affected watershed, and any affected or concerned citizen who notifies the department of his or her interest in participating. Technical or procedural disputes or disagreements that arise during the participation and comment process may be presented to the director for review. The director shall conduct a review of the disputed items and issue written findings and conclusions to all interested participants.

(b) If a study conducted on the total maximum daily load of a water body may affect a new or renewed national pollution discharge elimination permit under chapter 90.48 RCW, the department must disclose prior to the finalization of the study the precision and accuracy of data collected, computer models developed, and assumptions used.

(c) Any party that participated in a study under this subsection (2) and disagrees with the director's written findings under (a) of this subsection may request an administrative hearing presided over by an administrative law judge. The hearing shall be conducted in accordance with chapter 34.05 RCW. If the administrative law judge finds that the department's conclusions were based on erroneous information or data, the administrative law judge may order that the study be disregarded. The administrative law judge may also order the department to reimburse the party or parties requesting the hearing for any costs associated with hiring professional outside assistance that was reasonably necessary to prove that party's position at the hearing. These costs include attorney and consultant fees. The administrative law judge's determination or order shall be final and not subject to further appeal.

*Sec. 1 was partially vetoed. See message at end of chapter.

Passed the Senate March 12, 2002.

Passed the House March 5, 2002.

Approved by the Governor April 4, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 4, 2002.

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

"I am returning herewith, without my approval as to subsection 2(c), Senate Bill No. 6609 entitled:

"AN ACT Relating to studies conducted by the department of ecology;"

Senate Bill No. 6609 provides for public participation and comment on studies conducted by the Department of Ecology (DOE) in the implementation of chapter 90.48 RCW. It also provides for review of disputes by the DOE director, and requires disclosure of the underpinnings of studies and the data used in them, prior to finalization of the studies.

Subsection 2(c) of this bill would have set an undesirable precedent by barring appeal of administrative law judges' decisions, and potentially requiring DOE to pay for the costs of studies conducted by an aggrieved party. It is a basic principle of our system of law that parties who disagree with administrative law judges have a right to appeal the judges' determinations in court. Requiring an agency to pay a challenger's costs could have significant unforeseeable budget consequences.

For these reasons, I have vetoed subsection 2(c) of Senate Bill No. 6609.

With the exception of subsection 2(c), Senate Bill No. 6609 is approved."

CHAPTER 365

[Senate Bill 6828]

TOBACCO SETTLEMENT AUTHORITY

AN ACT Relating to the disposition of the state's revenues from the tobacco litigation national master settlement agreement; amending RCW 43.79.480; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 43 RCW; creating new sections; and declaring an emergency.

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

NEW SECTION. Sec. 1. LEGISLATIVE DECLARATION. The Legislature declares it to be the public policy of the state and a recognized governmental function to assist in securitizing the revenue stream from the master settlement agreement between the state and tobacco product manufacturers in order to provide a current and reliable source of revenue for the state. The purpose of this chapter is to establish a tobacco settlement authority having the power to purchase certain rights of the state under the master settlement agreement and to issue nonrecourse revenue bonds to pay outstanding obligations of the state in order to make funds available for increased costs of health care, long-term care, and other programs of the state. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof.

NEW SECTION. Sec. 2. DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the tobacco settlement authority created in this chapter.

(2) "Board" means the governing board of the authority.

(3) "Bonds" means bonds, notes, and other obligations and financing arrangements issued or entered into by the authority under this chapter.

(4) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended

and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(5) "Sales agreement" means any agreement authorized under this chapter in which the state provides for the sale to the authority of a portion of the payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement.

NEW SECTION. Sec. 3. TOBACCO SETTLEMENT AUTHORITY—ESTABLISHED. (1) The tobacco settlement authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

(2) The powers of the authority are vested in and shall be exercised by a board consisting of five directors appointed by the governor, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the authority and as chair of the authority at the pleasure of the governor. The governor shall make the initial appointments no later than thirty days after the effective date of this section. The term of the directors, other than the chair, shall be four years from the date of their appointment, except that the terms of two of the initial appointees, as determined by the governor, shall be for two years from the date of their appointment. A director may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The members of the authority shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060.

(3) Three members of the board constitute a quorum.

(4) The members shall elect a treasurer and secretary annually, and other officers as the members determine necessary.

(5) Meetings of the board shall be held in accordance with the open public meetings act, chapter 42.30 RCW, and at the call of the chair or when a majority of the members so requests. Meetings of the board may be held at any location within or out of the state, and members of the board may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The staff of the state housing finance commission under chapter 43.180 RCW shall provide administrative and staff support to the authority and shall be compensated for its services solely from the funds of the authority.

NEW SECTION. Sec. 4. BONDS NOT DEBT OF STATE. (1) Bonds issued under this chapter shall be issued in the name of the authority. The bonds shall not be obligations of the state of Washington and shall be obligations only of the authority, payable solely from the special fund or funds created by the authority for their payment.

(2) Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the authority as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state of Washington. The obligations of the authority under the contracts shall be obligations only of the authority and are not in any way obligations of the state of Washington.

NEW SECTION. Sec. 5. FINANCING POWERS. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Establish a stable source of revenue to be used for the purposes designated in this chapter;

(2) Enter into sales agreements with the state for purchase of a portion of the amounts otherwise due to the state under the master settlement agreement, and of the state's rights to receive such amounts;

(3) Issue bonds, the interest and gain on which may or may not be exempt from general federal income taxation, in one or more series, and to refund or refinance its debt and obligations;

(4) Sell, pledge, or assign, as security, all or a portion of the revenues derived by the authority under any sales agreement, to provide for and secure the issuance of its bonds;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Manage its funds, obligations, and investments as necessary and as consistent with its purpose; and

(7) Implement the purposes of this chapter.

NEW SECTION. Sec. 6. GENERAL POWERS—RESTRICTIONS. (1) The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may:

(a) Sue and be sued in its own name;

(b) Make and execute agreements, contracts, and other instruments, with any public or private person, in accordance with this chapter;

(c) Employ, contract with, or engage independent counsel, bond counsel, other attorneys, financial advisors, investment bankers, auditors, other technical or professional assistants, and such other personnel as are necessary and recommended by the state housing finance commission staff;

(d) Invest or deposit moneys of the authority in any manner determined by the authority and enter into hedge agreements, swap agreements, or other financial

products, including payment agreements defined under RCW 39.96.020(5). The authority is not a governmental entity for purposes of chapter 39.96 RCW;

(e) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(f) Procure insurance, other credit enhancements, and other financing arrangements for its bonds to fulfill its purposes under this chapter, including but not limited to municipal bond insurance and letters of credit;

(g) Accept appropriations, gifts, grants, loans, or other aid from public or private entities;

(h) Adopt rules, consistent with this chapter, as the board determines necessary;

(i) Delegate any of its powers and duties if consistent with the purposes of this chapter; and

(j) Exercise any other power reasonably required to implement the purposes of this chapter.

(2) The authority does not have the power of eminent domain and does not have the power to levy taxes of any kind.

NEW SECTION. Sec. 7. AUTHORIZATION OF THE SALE OF RIGHTS IN THE MASTER SETTLEMENT AGREEMENT. (1) The governor is authorized to sell and assign to the authority all of the state's right to receive a portion of the state's annual share of the revenue derived from the master settlement agreement for litigation brought by the state against tobacco product manufacturers. The portion of the state's share sold and assigned shall be determined by the governor in an amount necessary to generate net proceeds to the state for deposit to the tobacco securitization trust account under section 13 of this act up to four hundred fifty million dollars. The attorney general shall assist the governor in the review of all necessary documentation to effect the sale. The governor and the authority are authorized to take any action necessary to facilitate and complete the sale.

(2) The sale made under this section is irrevocable so long as bonds issued under this chapter remain outstanding. The portion of the revenue sold to the authority shall be pledged to the bondholders. The sale and assignment shall constitute and be treated as a true sale and absolute transfer of the revenue so transferred and not as a pledge or other security interest granted by the state for any borrowing. The characterization of such a sale as an absolute transfer shall not be negated or adversely affected by the fact that only a portion of the revenue from the master settlement agreement is being sold and assigned, or by the state's acquisition or retention of an ownership interest in the portion of the revenue from the master settlement agreement not so assigned.

(3) In addition to such other terms, provisions, and conditions as the governor and the authority may determine appropriate for inclusion in the sale agreements, the sale agreements shall contain (a) a covenant of the state that the state will not agree to any amendment of the master settlement agreement that materially and

adversely affects the authority's ability to receive the portion of the state's share of master settlement agreement payments that have been sold to the authority; (b) a requirement that the state enforce, at its own expense, the provisions of the master settlement agreement that require the payment of the portion of the state's share of master settlement agreement payments that have been sold to the authority; and (c) a covenant that the state shall take no action that would adversely affect the tax-exempt status of any tax-exempt bonds of the authority.

(4) On or after the effective date of the sale, the state shall not have any right, title, or interest in the portion of the state's share of the master settlement agreement revenue sold and such portion shall be the property of the authority and not the state, and shall be owned, received, held, and disbursed by the authority or its trustee or assignee, and not the state.

(5) The terms of the state's sale to the authority of a portion of the master settlement agreement revenue shall provide that the portion shall be paid directly to the authority or its trustee or assignee. The revenue sold and assigned shall not be received in the treasury of the state and shall not be or deemed to be general state revenues as that term is used in Article VIII, section 1 of the state Constitution.

NEW SECTION. Sec. 8. BONDS. (1) The authority may issue its bonds in principal amounts which, in the opinion of the authority, are necessary to provide sufficient funds for achievement of its purposes, the payment of debt service on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds and credit enhancements, if any, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

(2) The authority's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be taxable or tax exempt, be payable at such time or times, and be sold in such manner and at such price or prices, as the authority determines. The bonds shall be executed by one or more officers of the authority, and by the trustee or paying agent if the authority determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature, provided that at least one signature on the bond is manual.

(3) The bonds of the authority shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the

authority, including, but not limited to, pledges of the authority's assets, setting aside of reserves, and other provisions the authority finds are necessary or desirable for the security of bondholders.

(4) Any revenue pledged by the authority to be received under the sales agreement or in special funds created by the authority shall be valid and binding at the time the pledge is made. Receipts so pledged and then or thereafter received by the authority and any securities in which such receipts may be invested shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. Notwithstanding any other provision to the contrary, the resolution or indenture of the authority or any other instrument by which a pledge is created need not be recorded or filed pursuant to chapter 62A.9A RCW to perfect such pledge. The authority shall constitute a governmental unit within the meaning of RCW 62A.9A-102(a)(45).

(5) When issuing bonds, the authority may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The authority may issue refunding bonds in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(6) The board and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The authority may, out of any fund available therefor, purchase its bonds in the open market.

NEW SECTION. Sec. 9. LEGAL INVESTMENTS. Bonds issued under this chapter are hereby made securities in which all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them.

NEW SECTION. Sec. 10. LIMITATION OF LIABILITY. Members of the board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter.

NEW SECTION. Sec. 11. BANKRUPTCY. Prior to the date that is three hundred sixty-six days after which the authority no longer has any bonds outstanding, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under

chapter 9 or any successor or corresponding chapter or sections during such periods. This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law during the period of the contractual obligation.

NEW SECTION. Sec. 12. DISSOLUTION OF THE AUTHORITY. The authority shall dissolve no later than two years from the date of final payment of all of its outstanding bonds and the satisfaction of all outstanding obligations of the authority, except to the extent necessary to remain in existence to fulfill any outstanding covenants or provisions with bondholders or third parties made in accordance with this chapter. Upon dissolution of the authority, all assets of the authority shall be returned to the state and shall be deposited in the state general fund, and the authority shall execute any necessary assignments or instruments, including any assignment of any right, title, or ownership to the state for receipt of payments under the master settlement agreement.

NEW SECTION. Sec. 13. DISPOSITION OF PROCEEDS. The state treasurer shall deposit the proceeds of the sale of revenue under this chapter into the tobacco securitization trust account hereby created and held in the custody of the state treasurer. Moneys in the tobacco securitization trust account shall be subject to such appropriations and transfers as may be provided by law and shall be used for capital expenditures, debt service on outstanding bonds of the state, or for other purposes as permitted by law. The sales agreement under this chapter shall provide for the state to allocate the use of proceeds of the bonds issued by the authority to enable interest on all or a portion of the bonds to be excluded from income for federal tax law purposes.

NEW SECTION. Sec. 14. A new section is added to chapter 82.04 RCW to read as follows:

BUSINESS AND OCCUPATION TAX EXEMPTION. This chapter does not apply to income received by the tobacco settlement authority under chapter 43.— RCW (sections 1 through 13 of this act).

Sec. 15. RCW 43.79.480 and 1999 c 309 s 927 are each amended to read as follows:

(1) Moneys received by the state of Washington in accordance with the settlement of the state's legal action against tobacco product manufacturers, exclusive of costs and attorneys' fees, shall be deposited in the tobacco settlement account created in this section except as these moneys are sold or assigned under chapter 43.— RCW (sections 1 through 13 of this act).

(2) The tobacco settlement account is created in the state treasury. Moneys in the tobacco settlement account may only be transferred to the health services account for the purposes set forth in RCW 43.72.900, and to the tobacco prevention and control account for purposes set forth in this section.

(3) The tobacco prevention and control account is created in the state treasury. The source of revenue for this account is moneys transferred to the account from the tobacco settlement account, investment earnings, donations to the account, and other revenues as directed by law. Expenditures from the account are subject to appropriation.

~~((4) The state treasurer shall transfer one hundred million dollars from the tobacco settlement account to the tobacco prevention and control account upon authorization of the director of financial management. The director shall authorize transfer of the total amount by June 30, 2001.))~~

NEW SECTION. **Sec. 16. CAPTIONS.** Captions used in this act are not any part of the law.

NEW SECTION. **Sec. 17. CODIFICATION.** Sections 1 through 13 of this act constitute a new chapter in Title 43 RCW.

NEW SECTION. **Sec. 18. 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. 19. EFFECTIVE DATE.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed the Senate March 13, 2002.

Passed the House March 12, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 366

[Substitute Senate Bill 6833]

MEDICAL CARE—LEGAL IMMIGRANTS—CHILDREN'S HEALTH PROGRAMS

AN ACT Relating to medical care for certain immigrants; amending RCW 74.08A.100 and 74.09.415; and providing an effective date.

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

Sec. 1. RCW 74.08A.100 and 1997 c 57 s 1 are each amended to read as follows:

The state shall exercise its option under P.L. 104-193 to continue services to legal immigrants under temporary assistance for needy families, medicaid to the extent allowed by federal law, the state's basic health plan as provided in chapter 70.47 RCW, and social services block grant programs. Eligibility for these benefits for legal immigrants arriving after August 21, 1996, is limited to those families where the parent, parents, or legal guardians have been in residence in Washington state for a period of twelve consecutive months before making their application for assistance. Legal immigrants who lose benefits under the

supplemental security income program as a result of P.L. 104-193 are immediately eligible for benefits under the state's general assistance-unemployable program. The department shall redetermine income and resource eligibility at least annually, in accordance with existing state policy.

Sec. 2. RCW 74.09.415 and 1998 c 245 s 144 are each amended to read as follows:

(1) There is hereby established a program to be known as the children's health program.

To the extent of available funds:

(a) Health care services may be provided to persons who are under eighteen years of age with household incomes at or below the federal poverty level and ((not otherwise)) eligible for medical assistance or the limited casualty program for the medically needy.

(b) The determination of eligibility of recipients for health care services shall be the responsibility of the department. The application process shall be easy to understand and, to the extent possible, applications shall be made available at local schools and other appropriate locations. The department shall make eligibility determinations within the time frames for establishing eligibility for children on medical assistance, as defined by RCW 74.09.510.

(c) The amount, scope, and duration of health care services provided to eligible children under the children's health program shall be the same as that provided to children under medical assistance, as defined in RCW 74.09.520.

(2) The legislature is interested in assessing the effectiveness of the prenatal care program. However, the legislature recognizes the cost and complexity associated with such assessment.

The legislature accepts the effectiveness of prenatal and maternity care at improving birth outcomes when these services are received by eligible persons. Therefore, the legislature intends to focus scarce assessment resources to determine the extent to which support services such as child care, psychosocial and nutritional assessment and counseling, case management, transportation, and other support services authorized by chapter 296, Laws of 1990, result in receipt of prenatal and maternity care by eligible persons.

The University of Washington shall conduct a study, based on a statistically significant statewide sampling of data, to evaluate the effectiveness of the maternity care access program set forth in RCW 74.09.760 through 74.09.820 based on the principles set forth in RCW 74.09.770.

The University of Washington shall develop a plan and budget for the study in consultation with the joint legislative audit and review committee. The joint legislative audit and review committee shall also monitor the progress of the study.

The department of social and health services shall make data and other information available as needed to the University of Washington as required to conduct this study.

The study shall determine:

- (a) The characteristics of women receiving services, including health risk factors;
- (b) The extent to which access to maternity care and support services have improved in this state as a result of this program;
- (c) The utilization of services and birth outcomes for women and infants served by this program by type of practitioner;
- (d) The extent to which birth outcomes for women receiving services under this program have improved in comparison to birth outcomes of nonmedicaid mothers;
- (e) The impact of increased medicaid reimbursement to physicians on provider participation;
- (f) The difference between costs for services provided under this program and medicaid reimbursement for the services;
- (g) The gaps in services, if any, that may still exist for women and their infants as defined by RCW 74.09.790 (1) and (4) served by this program, excluding pregnant substance abusers, and women covered by private health insurance; and
- (h) The number and mix of services provided to eligible women as defined by subsection (2)(g) of this section and the effect on birth outcomes as compared to nonmedicaid birth outcomes.

NEW SECTION. Sec. 3. This act takes effect October 1, 2002.

Passed the Senate March 13, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 367

[Senate Bill 6835]

USE TAXATION

AN ACT Relating to use taxation; amending RCW 82.04.060, 82.12.010, 82.12.020, 82.12.035, and 82.14.020; reenacting and amending RCW 82.04.190; providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 82.04.060 and 1998 c 332 s 5 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means: (1) Any sale of tangible personal property ~~((; (2)))~~, any sale of services defined as a retail sale in RCW 82.04.050(2)(a), any sale of amusement or recreation services as defined in RCW 82.04.050(3)(a) ~~((; (3)))~~, any sale of canned software ~~((;))~~, or ~~((; (4)))~~ any sale of telephone service as defined in RCW 82.04.065, which is not a sale at retail; and ~~((means))~~ (2) any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers:

PROVIDED, That the term "real or personal property" as used in this ((section)) subsection shall not include any natural products named in RCW 82.04.100.

Sec. 2. RCW 82.04.190 and 1998 c 332 s 6 and 1998 c 308 s 2 are each reenacted and amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose (a) of resale as tangible personal property in the regular course of business or (b) of incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers or (c) of consuming such property in producing for sale a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale or (d) purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290; (b) any person who purchases, acquires, or uses any telephone service as defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2)(a) or any amusement and recreation service defined in RCW 82.04.050(3)(a), other than for resale in the regular course of business; and (d) any person who is an end user of software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, right of way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the right of way of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition shall be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person shall be a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section shall be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other byproducts of weapons production and nuclear research and development; and

(9) Until July 1, 2003, any person engaged in the business of conducting environmental remedial action as defined in RCW 82.04.2635(2).

Sec. 3. RCW 82.12.010 and 2001 c 188 s 3 are each amended to read as follows:

For the purposes of this chapter:

(1)(a) "Value of the article used" shall mean the consideration, whether money, credit, rights, or other property except trade-in property of like kind, expressed in terms of money, paid or given or contracted to be paid or given by the

purchaser to the seller for the article of tangible personal property, the use of which is taxable under this chapter. The term includes the amount of any freight, delivery, or other like transportation charge paid or given by the purchaser to the seller with respect to the purchase of such article. The term also includes, in addition to the consideration paid or given or contracted to be paid or given, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used shall be determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department of revenue may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used shall be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component 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 such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used shall be determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used shall be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used shall be determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the

article used shall be determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used shall be determined by the retail selling price, as defined in RCW 82.08.010, of such article if but for the use of the direct pay permit the transaction would have been subject to sales tax;

(2) "Value of the service used" means the consideration, whether money, credit, rights, or other property, expressed in terms of money, paid or given or contracted to be paid or given by the purchaser to the seller for the service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used shall be determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department of revenue may prescribe;

(3) "Use," "used," "using," or "put to use" shall have their ordinary meaning, and shall mean:

(a) With respect to tangible personal property, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state; and

~~((3))~~ (b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(4) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW;

~~((4))~~ (5) "Retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter;

~~((5))~~ (6) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, shall have full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, shall also mean any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With

respect to property distributed to persons within this state by a consumer as defined in this subsection (6), the use of the property shall be deemed to be by such consumer.

Sec. 4. RCW 82.12.020 and 1999 c 358 s 9 are each amended to read as follows:

(1) There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using within this state as a consumer:

(a) Any article of tangible personal property purchased at retail, or acquired by lease, gift, repossession, or bailment, or extracted or produced or manufactured by the person so using the same, or otherwise furnished to a person engaged in any business taxable under RCW 82.04.280 (2) or (7); or (b) any canned software, regardless of the method of delivery, but excluding canned software that is either provided free of charge or is provided for temporary use in viewing information, or both.

(2) This tax shall apply to the use of every service defined as a retail sale in RCW 82.04.050 (2)(a) or (3)(a) and the use of every article of tangible personal property, including property acquired at a casual or isolated sale, and including byproducts used by the manufacturer thereof, except as hereinafter provided, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state.

(3) Except as provided in RCW 82.12.0252, payment by one purchaser or user of tangible personal property or service of the tax imposed by chapter 82.08 or 82.12 RCW shall not have the effect of exempting any other purchaser or user of the same property or service from the taxes imposed by such chapters.

(4) The tax shall be levied and collected in an amount equal to the value of the article used or value of the service used by the taxpayer multiplied by the rate in effect for the retail sales tax under RCW 82.08.020.

Sec. 5. RCW 82.12.035 and 1996 c 148 s 6 are each amended to read as follows:

A credit shall be allowed against the taxes imposed by this chapter upon the use of tangible personal property, or services taxable under RCW 82.04.050 (2)(a) or (3)(a), in the state of Washington in the amount that the present user thereof or his or her bailor or donor has paid a retail sales or use tax with respect to such property to any other state of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof, prior to the use of such property in Washington.

Sec. 6. RCW 82.14.020 and 2001 c 186 s 3 are each amended to read as follows:

For purposes of this chapter:

(1) A retail sale consisting solely of the sale of tangible personal property shall be deemed to have occurred at the retail outlet at or from which delivery is made to the consumer;

(2) A retail sale consisting essentially of the performance of personal, business, or professional services shall be deemed to have occurred at the place at which such services were primarily performed, except that for the performance of a tow truck service, as defined in RCW 46.55.010, the retail sale shall be deemed to have occurred at the place of business of the operator of the tow truck service;

(3) A retail sale consisting of the rental of tangible personal property shall be deemed to have occurred (a) in the case of a rental involving periodic rental payments, at the primary place of use by the lessee during the period covered by each payment, or (b) in all other cases, at the place of first use by the lessee;

(4) A retail sale within the scope of RCW 82.04.050(2), and a retail sale of taxable personal property to be installed by the seller shall be deemed to have occurred at the place where the labor and services involved were primarily performed;

(5) A retail sale consisting of the providing to a consumer of telephone service, as defined in RCW 82.04.065, other than a sale of tangible personal property under subsection (1) of this section or a rental of tangible personal property under subsection (3) of this section, shall be deemed to have occurred at the situs of the telephone or other instrument through which the telephone service is rendered;

(6) A retail sale of linen and uniform supply services is deemed to occur as provided in RCW 82.08.0202;

(7) "City" means a city or town;

(8) The meaning ascribed to words and phrases in chapters 82.04, 82.08 and 82.12 RCW, as now or hereafter amended, insofar as applicable, shall have full force and effect with respect to taxes imposed under authority of this chapter;

(9) "Taxable event" shall mean any retail sale, or any use (~~of an article of tangible personal property~~), upon which a state tax is imposed pursuant to chapter 82.08 or 82.12 RCW, as they now exist or may hereafter be amended: PROVIDED, HOWEVER, That the term shall not include a retail sale taxable pursuant to RCW 82.08.150, as now or hereafter amended;

(10) "Treasurer or other legal depository" shall mean the treasurer or legal depository of a county or city.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 1, 2002.

Passed the Senate March 13, 2002.

Passed the House March 14, 2002.

Approved by the Governor April 4, 2002.

Filed in Office of Secretary of State April 4, 2002.

CHAPTER 368

[Engrossed Substitute House Bill 2866]

HYDRAULIC PERMITS

AN ACT Relating to hydraulic permits; amending RCW 77.55.100, 77.55.110, 77.55.170, and 77.55.220; adding new sections to chapter 77.55 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 hydraulic project approvals should ensure that fish life is properly protected, but conditions attached to the approval of these permits must reasonably relate to the potential harm that the projects may produce. The legislature is particularly concerned over the current overlap of agency jurisdiction regarding storm water projects, and believes that there is an immediate need to address this issue to ensure that project applicants are not given conflicting directions over project design. Requiring a major redesign of a project results in major delays, produces exponentially rising costs for both public and private project applicants, and frequently produces only marginal benefits for fish.

The legislature recognizes that the department of ecology is primarily responsible for the approval of storm water projects. The legislature believes that once the department of ecology approves a proposed storm water project, it is inappropriate for the department of fish and wildlife to require a major redesign of that project in order for the applicant to obtain hydraulic project approval. The legislature further believes that it is more appropriate for the department of fish and wildlife to defer the design elements of a storm water project to the department of ecology and focus its own efforts on determining reasonable mitigation or conditions for the project based upon the project's potential harm to fish. It is the intent of the legislature to restore some balance over conditions attached to hydraulic permits, and to minimize overlapping state regulatory authority regarding storm water projects in order to reduce waste in both time and money while still providing ample protection for fish life.

Sec. 2. RCW 77.55.100 and 2000 c 107 s 16 are each amended to read as follows:

(1) 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 approval of the department as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld or unreasonably conditioned.

(2)(a) The department shall grant or deny approval of a standard permit 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 permit must contain provisions

allowing for minor modifications to the plans and specifications without requiring reissuance of the permit.

(b) 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.

(c) The forty-five day requirement shall be suspended if:

(i) 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;

(ii) The site is physically inaccessible for inspection; or

(iii) The applicant requests delay. Immediately upon determination that the forty-five day period is suspended, the department shall notify the applicant in writing of the reasons for the delay.

(d) For purposes of this section, "standard permit" means a written permit issued by the department when the conditions under subsections (3) and (5)(b) of this section are not met.

(3)(a) The department may issue an expedited written permit in those instances where normal permit processing would result in significant hardship for the applicant or unacceptable damage to the environment. In cases of imminent danger, the department shall issue an expedited written permit, upon request, for work to repair existing structures, move obstructions, restore banks, protect property, or protect fish resources. Expedited permit requests require a complete written application as provided in subsection (2)(b) of this section and shall be issued within fifteen calendar days of the receipt of a complete written application. Approval of an expedited permit is valid for up to sixty days from the date of issuance.

(b) For the purposes of this subsection, "imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within sixty days of a request for a permit application.

(c) The department may not require the provisions of the state environmental policy act, chapter 43.21C RCW, to be met as a condition of issuing a permit under this subsection.

(d) The department or the county legislative authority may determine if an imminent danger exists. The county legislative authority shall notify the department, in writing, if it determines that an imminent danger exists.

(4) Approval of a standard permit 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 the department denies approval, the 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 34.05 RCW applies to any denial of project approval, conditional approval, or requirements for project modification upon which approval may be contingent.

(5)(a) In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its 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 to protect fish life shall be established by the department and 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.

(b) For purposes of this section and RCW 77.55.110, "emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(c) The department or the county legislative authority may declare and continue an emergency when one or more of the criteria under (b) of this subsection are met. The county legislative authority shall immediately notify the department if it declares an emergency under this subsection.

(6) The department shall, at the request of a county, develop five-year maintenance approval agreements, consistent with comprehensive flood control management plans adopted under the authority of RCW 86.12.200, or other watershed plan approved by a county legislative authority, to allow for work on public and private property for bank stabilization, bridge repair, removal of sand bars and debris, channel maintenance, and other flood damage repair and reduction activity under agreed-upon conditions and times without obtaining permits for specific projects.

(7) 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 77.55.110.

A landscape management plan approved by the department and the department of natural resources under RCW 76.09.350(2), shall serve as a hydraulic project approval for the life of the plan if fish are selected as one of the public resources for coverage under such a plan.

(8) For the purposes of this section and RCW 77.55.110, "bed" means the land below the ordinary high water lines of state waters. This definition does 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.

(9) The phrase "to construct any form of hydraulic project or perform other work" does 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.

Sec. 3. RCW 77.55.110 and 1998 c 190 s 88 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 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 as to the adequacy of the means proposed for the protection of fish life. This approval shall not be unreasonably withheld or unreasonably conditioned. ~~((Except as provided in RCW 75.20.1001;))~~ The department 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 permit must contain provisions allowing for minor modifications to the plans and specifications without requiring reissuance of the permit. 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 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 the department denies approval, the 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 to show that the denial or conditioning of an approval is solely aimed at the protection of fish life.

The department 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 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 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.

In case of an emergency arising from weather or stream flow conditions or other natural conditions, the department, through its 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.

NEW SECTION. **Sec. 4.** A new section is added to chapter 77.55 RCW to read as follows:

(1) Notwithstanding any other provision of this chapter, all hydraulic project approvals related to storm water discharges must follow the provisions established in this section.

(2) Hydraulic project approvals issued in locations covered by a national pollution discharge elimination system municipal storm water general permit may not be conditioned or denied for water quality or quantity impacts arising from storm water discharges. A hydraulic project approval is required only for the

actual construction of any storm water outfall or associated structures pursuant to this chapter.

(3)(a) In locations not covered by a national pollution discharge elimination system municipal storm water general permit, the department may issue hydraulic project approvals that contain provisions that protect fish life from adverse effects, such as scouring or erosion of the bed of the water body, resulting from the direct hydraulic impacts of the discharge.

(b) Prior to the issuance of a hydraulic project approval issued under this subsection (3), the department must:

(i) Make a finding that the discharge from the outfall will cause harmful effects to fish life;

(ii) Transmit the findings to the applicant and to the city or county where the project is being proposed; and

(iii) Allow the applicant an opportunity to use local ordinances or other mechanisms to avoid the adverse effects resulting from the direct hydraulic discharge. The forty-five day requirement for hydraulic project approval issuance pursuant to RCW 77.55.100 is suspended during the time period the department is meeting the requirements of this subsection (3)(b).

(c) After following the procedures set forth in (b) of this subsection, the department may issue a hydraulic project approval that prescribes the discharge rates from an outfall structure that will prevent adverse effects to the bed or flow of the waterway. The department may recommend, but not specify, the measures required to meet these discharge rates. The department may not require changes to the project design above the mean higher high water mark of marine waters, or the ordinary high water mark of fresh waters of the state. Nothing in this section alters any authority the department may have to regulate other types of projects under this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 77.55 RCW to read as follows:

Conditions imposed upon hydraulic project approvals must be reasonably related to the project. The conditions must ensure that the project provides proper protection for fish life, but the department may not impose conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

****Sec. 6. RCW 77.55.170 and 2000 c 107 s 20 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)) six 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, and three local government members. One of the

local government members must be appointed by the Washington state association of counties, one of the local government members must be appointed by the association of Washington cities, and one of the local government members must be appointed by the Washington public ports association. The local government members serve at the pleasure of their respective associations. A decision must be agreed to by at least ((two)) four 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)) four 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 the department: (a) Under the authority granted in RCW 77.55.110 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; or (b) under the authority granted in RCW 77.55.230 for off-site mitigation proposals.*

(6)(a) *Any person aggrieved by the approval, denial, conditioning, or modification of a hydraulic approval pursuant to RCW 77.55.110 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 34.05 RCW pertaining to procedures in adjudicative proceedings.*

*Sec. 6 was vetoed. See message at end of chapter.

Sec. 7. RCW 77.55.220 and 1996 c 192 s 2 are each amended to read as follows:

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

(a) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include but are not limited to overnight or live-aboard boating accommodations.

(b) "Marine terminal" means a public or private commercial wharf located in the navigable water of the state and used, or intended to be used, as a port or facility for the storing, handling, transferring, or transporting of goods to and from vessels.

(2) For a marina or marine terminal in existence on June 6, 1996, or a marina or marine terminal that has received a hydraulic project approval for its initial

construction, a renewable, five-year hydraulic project approval shall be issued, upon request, for regular maintenance activities of the marina or marine terminal.

(3) Upon construction of a new marina or marine terminal that has received hydraulic project approval, a renewable, five-year hydraulic project approval shall be issued, upon request, for regular maintenance activities of the marina or marine terminal.

(4) For the purposes of this section, regular maintenance activities are only those activities necessary to restore the marina or marine terminal to the conditions approved in the initial hydraulic project approval. These activities may include, but are not limited to, dredging, piling replacement, and float replacement.

(5) The five-year permit must include a requirement that a fourteen-day notice be given to the department before regular maintenance activities begin.

Passed the House March 11, 2002.

Passed the Senate March 8, 2002.

Approved by the Governor April 5, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 5, 2002.

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

"I am returning herewith, without my approval as to section 6, Engrossed Substitute House Bill No. 2866 entitled:

"AN ACT Relating to hydraulic permits;"

Engrossed Substitute House Bill No. 2866 makes changes to the hydraulic project approval (HPA) statute and adds members to the Hydraulic Appeals Board.

Section 6 of the bill would have added three members to the Hydraulics Appeals Board - one to be appointed by the Association of Washington Cities, one by the Association of Washington Counties, and one by the Washington Public Ports Association - to serve at the pleasure of those associations. These associations should not control half of a quasi-judicial board that hears appeals in which the associations very often have a stake.

In reviewing the bill, I am also concerned about sections 4 and 5. These sections address the relationship between HPA permits and general storm water permits, and how the Department of Fish and Wildlife (WDFW) may condition the issuance of an HPA permit.

Although I have decided not to veto sections 4 and 5, I am concerned that these sections could limit the ability of WDFW to provide protection for fish through the HPA process. There has not been a sufficient examination of whether the storm water manual, local ordinances, or "other mechanisms" would be adequate substitutes for the conditions that the department would consider. The consequence could be to tie the hands of the department in the implementation of one of its only regulatory programs for fish habitat protection without adequate assurance that the alternative will provide the necessary level of protection.

The supplemental operating budget includes a provision requiring WDFW to establish a hydraulic project approval (HPA) program technical review task force. This task force is to conduct a thorough evaluation of the HPA program and make recommendations to the legislature by November of this year. I am requesting that this task force also address the question of the overlap of state statutory requirements and local programs, to determine whether they adequately address impacts covered by the HPA process.

There is an opportunity to streamline these processes and clarify regulatory authority. However, we must make these improvements in a manner that will protect critical salmon

habitat, and maintain the ability of our state agencies to provide such protection. I expect that the HPA task force will make recommendations to accomplish this.

For the reasons indicated above, I have vetoed section 6 of Engrossed Substitute House Bill No. 2866.

With the exception of section 6, Engrossed Substitute House Bill No. 2866 is approved."

CHAPTER 369

[Engrossed House Bill 2918]

BINGO

AN ACT Relating to authorizing bona fide charitable and nonprofit organizations to conduct bingo; amending RCW 9.46.0205; and adding new sections to chapter 9.46 RCW.

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

Sec. 1. RCW 9.46.0205 and 1987 c 4 s 3 are each amended to read as follows:

"Bingo," as used in this chapter, means a game conducted only in the county within which the organization is principally located in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization (~~which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week~~), or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization, unless approved by the commission, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game. For the purposes of this section, the organization shall be deemed to be principally located in the county within which it has its primary business office. If the organization has no business office, the organization shall be deemed to be located in the county of principal residence of its chief executive officer: **PROVIDED**, That any organization which is conducting any licensed and established bingo game in any locale as of January 1, 1981, shall be exempt from the requirement that such game be conducted in the county in which the organization is principally located.

NEW SECTION. **Sec. 2.** A new section is added to chapter 9.46 RCW to read as follows:

The commission may allow existing licensees under RCW 9.46.070(1) to share facilities at one location.

NEW SECTION. Sec. 3. A new section is added to chapter 9.46 RCW to read as follows:

An entity licensed under RCW 9.46.070(1) which conducts or allows its premises to be used for conducting bingo on more than three occasions per week shall include the following statement in any advertising or promotion of gambling activity conducted by the licensee:

"CAUTION: Participation in gambling activity may result in pathological gambling behavior causing emotional and financial harm. For help, call 1-800-547-6133."

For purposes of this section, "advertising" includes print media, point-of-sale advertising, electronic media, billboards, and radio advertising.

Passed the House March 11, 2002.

Passed the Senate March 7, 2002.

Approved by the Governor April 5, 2002.

Filed in Office of Secretary of State April 5, 2002.

CHAPTER 370

[Second Substitute Senate Bill 6080]

FIREWORKS

AN ACT Relating to updating and harmonizing fireworks and explosives laws; amending RCW 70.74.010, 70.74.191, 70.74.400, 70.77.126, 70.77.131, 70.77.136, 70.77.141, 70.77.160, 70.77.170, 70.77.175, 70.77.180, 70.77.205, 70.77.210, 70.77.215, 70.77.230, 70.77.236, 70.77.250, 70.77.255, 70.77.270, 70.77.305, 70.77.311, 70.77.315, 70.77.330, 70.77.335, 70.77.340, 70.77.343, 70.77.381, 70.77.395, 70.77.401, 70.77.405, 70.77.420, 70.77.425, 70.77.435, 70.77.440, 70.77.495, 70.77.510, 70.77.515, 70.77.517, 70.77.520, 70.77.535, 70.77.555, 70.77.575, and 70.77.580; adding new sections to chapter 70.77 RCW; and prescribing penalties.

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

Sec. 1. RCW 70.74.010 and 1993 c 293 s 1 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) The terms "authorized", "approved" or "approval" shall be held to mean authorized, approved, or approval by the department of labor and industries.

(2) The term "blasting agent" shall be held to mean and include any material or mixture consisting of a fuel and oxidizer, ~~((intended for blasting, not otherwise classified as an explosive, and in which none of the ingredients are classified as an explosive, provided that the finished product, as mixed and packaged for use or shipment, cannot be detonated when unconfined by means of a No. 8 test blasting cap))~~ that is intended for blasting and not otherwise defined as an explosive; if the finished product, as mixed for use or shipment, cannot be detonated by means of a number 8 test blasting cap when unconfined. A number 8 test blasting cap is one

containing two grams of a mixture of eighty percent mercury fulminate and twenty percent potassium chlorate, or a blasting cap of equivalent strength. An equivalent strength cap comprises 0.40-0.45 grams of PETN base charge pressed in an aluminum shell with bottom thickness not to exceed 0.03 of an inch, to a specific gravity of not less than 1.4 g/cc., and primed with standard weights of primer depending on the manufacturer.

(3) The term "explosive" or "explosives" whenever used in this chapter, shall be held to mean and include any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing, that an ignition by fire, by friction, by concussion, by percussion, or by detonation of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb. In addition, the term "explosives" shall include all material which is classified as ~~((class A, class B, and class C))~~ division 1.1, 1.2, 1.3, 1.4, 1.5, or 1.6 explosives by the ((federal)) Unites States department of transportation. For the purposes of this chapter small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder not exceeding five pounds shall not be defined as explosives, unless possessed or used for a purpose inconsistent with small arms use or other lawful purpose.

(4) Classification of explosives shall include but not be limited to the following:

(a) ~~((CLASS A))~~ DIVISION 1.1 and 1.2 EXPLOSIVES: ((Possessing)) Possess mass explosion or detonating hazard((?)) and include dynamite, nitroglycerin, picric acid, lead azide, fulminate of mercury, black powder exceeding five pounds, blasting caps in quantities of 1001 or more, and detonating primers.

(b) ~~((CLASS B))~~ DIVISION 1.3 EXPLOSIVES: ((Possessing)) Possess a minor blast hazard, a minor projection hazard, or a flammable hazard((?)) and include propellant explosives, including smokeless ~~((propellants))~~ powder exceeding fifty pounds.

(c) ~~((CLASS C))~~ DIVISION 1.4, 1.5, and 1.6 EXPLOSIVES: ((Including)) Include certain types of manufactured articles which contain ~~((class A or class B))~~ division 1.1, 1.2, or 1.3 explosives, or ((both)) all, as components, but in restricted quantities((?)), and also include blasting caps in quantities of 1000 or less.

(5) The term "explosive-actuated power devices" shall be held to mean any tool or special mechanized device which is actuated by explosives, but not to include propellant-actuated power devices.

(6) The term "magazine", shall be held to mean and include any building or other structure, other than ~~((a factory))~~ an explosives manufacturing building, used for the storage of explosives.

(7) The term "improvised device" means a device which is fabricated with explosives or destructive, lethal, noxious, pyrotechnic, or incendiary chemicals and which is designed, or has the capacity, to disfigure, destroy, distract, or harass.

(8) The term "inhabited building", shall be held to mean and include only a building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other building where people are accustomed to assemble, other than any building or structure occupied in connection with the manufacture, transportation, storage, or use of explosives.

(9) The term "explosives manufacturing plant" shall be held to mean and include all lands, with the buildings situated thereon, used in connection with the manufacturing or processing of explosives or in which any process involving explosives is carried on, or the storage of explosives thereat, as well as any premises where explosives are used as a component part or ingredient in the manufacture of any article or device.

(10) The term "explosives manufacturing building", shall be held to mean and include any building or other structure (excepting magazines) containing explosives, in which the manufacture of explosives, or any processing involving explosives, is carried on, and any building where explosives are used as a component part or ingredient in the manufacture of any article or device.

(11) The term "railroad" shall be held to mean and include any steam, electric, or other railroad which carries passengers for hire.

(12) The term "highway" shall be held to mean and include any public street, public alley, or public road, including a privately financed, constructed, or maintained road that is regularly and openly traveled by the general public.

(13) The term "efficient artificial barricade" shall be held to mean an artificial mound or properly revetted wall of earth of a minimum thickness of not less than three feet or such other artificial barricade as approved by the department of labor and industries.

(14) The term "person" shall be held to mean and include any individual, firm, ~~((copartnership))~~ partnership, corporation, company, association, society, joint stock company, joint stock association, and including any trustee, receiver, assignee, or personal representative thereof.

(15) The term "dealer" shall be held to mean and include any person who purchases explosives or blasting agents for the sole purpose of resale, and not for use or consumption.

(16) The term "forbidden or not acceptable explosives" shall be held to mean and include explosives which are forbidden or not acceptable for transportation by common carriers by rail freight, rail express, highway, or water in accordance with the regulations of the federal department of transportation.

(17) The term "handloader" shall be held to mean and include any person who engages in the noncommercial assembling of small arms ammunition for his own use, specifically the operation of installing new primers, powder, and projectiles into cartridge cases.

(18) The term "handloader components" means small arms ammunition, small arms ammunition primers, smokeless powder not exceeding fifty pounds, and black powder as used in muzzle loading firearms not exceeding five pounds.

(19) The term "fuel" shall be held to mean and include a substance which may react with the oxygen in the air or with the oxygen yielded by an oxidizer to produce combustion.

(20) The term "motor vehicle" shall be held to mean and include any self-propelled automobile, truck, tractor, semi-trailer or full trailer, or other conveyance used for the transportation of freight.

(21) The term "natural barricade" shall be held to mean and include any natural hill, mound, wall, or barrier composed of earth or rock or other solid material of a minimum thickness of not less than three feet.

(22) The term "oxidizer" shall be held to mean a substance that yields oxygen readily to stimulate the combustion of organic matter or other fuel.

(23) The term "propellant-actuated power device" shall be held to mean and include any tool or special mechanized device or gas generator system which is actuated by a propellant or which releases and directs work through a propellant charge.

(24) The term "public conveyance" shall be held to mean and include any railroad car, streetcar, ferry, cab, bus, airplane, or other vehicle which is carrying passengers for hire.

(25) The term "public utility transmission system" shall mean power transmission lines over 10 KV, telephone cables, or microwave transmission systems, or buried or exposed pipelines carrying water, natural gas, petroleum, or crude oil, or refined products and chemicals, whose services are regulated by the utilities and transportation commission, municipal, or other publicly owned systems.

(26) The term "purchaser" shall be held to mean any person who buys, accepts, or receives any explosives or blasting agents.

(27) The term "pyrotechnic" shall be held to mean and include any combustible or explosive compositions or manufactured articles designed and prepared for the purpose of producing audible or visible effects which are commonly referred to as fireworks as defined in chapter 70.77 RCW.

(28) The term "small arms ammunition" shall be held to mean and include any shotgun, rifle, pistol, or revolver cartridge, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges, incendiary, tracer, spotting, or pyrotechnic projectiles is excluded from this definition.

(29) The term "small arms ammunition primers" shall be held to mean small percussion-sensitive explosive charges encased in a cup, used to ignite propellant powder and shall include percussion caps as used in muzzle loaders.

(30) The term "smokeless ((propellants)) powder" shall be held to mean and include solid chemicals or solid chemical mixtures in excess of fifty pounds which function by rapid combustion.

(31) The term "user" shall be held to mean and include any natural person, manufacturer, or blaster who acquires, purchases, or uses explosives as an ultimate consumer or who supervises such use.

Words used in the singular number shall include the plural, and the plural the singular.

Sec. 2. RCW 70.74.191 and 1998 c 40 s 1 are each amended to read as follows:

The laws contained in this chapter and regulations prescribed by the department of labor and industries pursuant to this chapter shall not apply to:

(1) Explosives or blasting agents in the course of transportation by way of railroad, water, highway, or air under the jurisdiction of, and in conformity with, regulations adopted by the federal department of transportation, the Washington state utilities and transportation commission, and the Washington state patrol;

(2) The laboratories of schools, colleges, and similar institutions if confined to the purpose of instruction or research and if not exceeding the quantity of one pound;

(3) Explosives in the forms prescribed by the official United States Pharmacopoeia;

(4) The transportation, storage, and use of explosives or blasting agents in the normal and emergency operations of ((federal)) United States agencies and departments including the regular United States military departments on military reservations(;;); arsenals, navy yards, depots, or other establishments owned by, operated by, or on behalf of, the United States; or the duly authorized militia of any state ((or territory)); or to emergency operations of any state department or agency, any police, or any municipality or county;

(5) A hazardous devices technician when carrying out normal and emergency operations, handling evidence, and operating and maintaining a specially designed emergency response vehicle that carries no more than ten pounds of explosive material or when conducting training and whose employer possesses the minimum safety equipment prescribed by the federal bureau of investigation for hazardous devices work. For purposes of this section, a hazardous devices technician is a person who is a graduate of the federal bureau of investigation hazardous devices school and who is employed by a state, county, or municipality;

(6) The importation, sale, possession, and use of fireworks as defined in chapter 70.77 RCW, signaling devices, flares, fuses, and torpedoes;

(7) The transportation, storage, and use of explosives or blasting agents in the normal and emergency avalanche control procedures as conducted by trained and licensed ski area operator personnel. However, the storage, transportation, and use of explosives and blasting agents for such use shall meet the requirements of regulations adopted by the director of labor and industries; ((and))

(8) The storage of consumer fireworks as defined in chapter 70.77 RCW pursuant to a forfeiture or seizure under chapter 70.77 RCW by the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, or by state agencies or local governments having general law enforcement authority; and

(9) Any violation under this chapter if any existing ordinance of any city, municipality, or county is more stringent than this chapter.

Sec. 3. RCW 70.74.400 and 1993 c 293 s 8 are each amended to read as follows:

(1) Explosives, improvised devices, and components of explosives and improvised devices that are possessed, manufactured, delivered, imported, exported, stored, sold, purchased, transported, abandoned, detonated, or used, or intended to be used, in violation of a provision of this chapter are subject to seizure and forfeiture by a law enforcement agency and no property right exists in them.

(2) The law enforcement agency making the seizure shall notify the Washington state department of labor and industries of the seizure.

(3) Seizure of explosives, improvised devices, and components of explosives and improvised devices under subsection (1) of this section may be made if:

(a) The seizure is incident to arrest or a search under a search warrant;

(b) The explosives, improvised devices, or components have been the subject of a prior judgment in favor of the state in an injunction or forfeiture proceeding based upon this chapter;

(c) A law enforcement officer has probable cause to believe that the explosives, improvised devices, or components are directly or indirectly dangerous to health or safety; or

(d) The law enforcement officer has probable cause to believe that the explosives, improvised devices, or components were used or were intended to be used in violation of this chapter.

~~((3))~~ (4) A law enforcement agency shall destroy explosives seized under this chapter when it is necessary to protect the public safety and welfare. When destruction is not necessary to protect the public safety and welfare, and the explosives are not being held for evidence, a seizure pursuant to this section commences proceedings for forfeiture.

~~((4))~~ (5) The law enforcement agency under whose authority the seizure was made shall issue a written notice of the seizure and commencement of the forfeiture proceedings to the person from whom the explosives were seized, to any known owner of the explosives, and to any person who has a known interest in the explosives. The notice shall be issued within fifteen days of the seizure. The notice of seizure and commencement of the forfeiture proceedings shall be served in the same manner as provided in RCW 4.28.080 for service of a summons. The law enforcement agency shall provide a form by which the person or persons may request a hearing before the law enforcement agency to contest the seizure.

~~((5))~~ (6) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the explosives, improvised devices, or components within thirty days of the date the notice was issued, the seized explosives, devices, or components shall be deemed forfeited.

~~((6))~~ (7) If, within thirty days of the issuance of the notice, any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items seized, 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 or the officer's designee of the seizing agency, except that the person asserting the claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the items seized is more than five hundred dollars. The hearing and any appeal shall be conducted according to chapter 34.05 RCW. The seizing law enforcement agency shall bear the burden of proving that the person (a) has no lawful right of ownership or possession and (b) that the items seized were possessed, manufactured, stored, sold, purchased, transported, abandoned, detonated, or used in violation of a provision of this chapter with the person's knowledge or consent.

~~((7))~~ (8) The seizing law enforcement agency shall promptly return the items seized to the claimant upon a determination that the claimant is entitled to possession of the items seized.

~~((8))~~ (9) If the items seized are forfeited under this statute, the seizing agency shall ~~((destroy)) dispose of~~ the explosives by summary destruction. However, when explosives are destroyed either to protect public safety or because the explosives were forfeited, the person from whom the explosives were seized loses all rights of action against the law enforcement agency or its employees acting within the scope of their employment, or other governmental entity or employee involved with the seizure and destruction of explosives.

~~((9))~~ (10) This section is not intended to change the seizure and forfeiture powers, enforcement, and penalties available to the department of labor and industries pursuant to chapter 49.17 RCW as provided in RCW 70.74.390.

Sec. 4. RCW 70.77.126 and 1995 c 61 s 3 are each amended to read as follows:

"Fireworks" means any composition or device ~~((, in a finished state, containing any combustible or explosive substance for the purpose of producing)) designed to produce a visible or audible effect by combustion ~~((, explosion)),~~ deflagration, or detonation, and ~~((classified as common)) which meets the definition of articles pyrotechnic or consumer fireworks or ((special) display fireworks ((by the United States bureau of explosives or contained in the regulations of the United States department of transportation and designated as U.N. 0335 1.3G or U.N. 0336 1.4G as of April 17, 1995)).~~~~

Sec. 5. RCW 70.77.131 and 1995 c 61 s 4 are each amended to read as follows:

~~"((Special)) Display fireworks" means ((any fireworks designed primarily for exhibition display by producing visible or audible effects and classified as such by the United States bureau of explosives or in the regulations of the United States department of transportation and designated as U.N. 0335 1.3G as of April 17, 1995))~~ large fireworks designed primarily to produce visible or audible effects by combustion, deflagration, or detonation and includes, but is not limited to, salutes containing more than 2 grains (130 mg) of explosive materials, aerial shells containing more than 40 grams of pyrotechnic compositions, and other display pieces which exceed the limits of explosive materials for classification as "consumer fireworks" and are classified as fireworks UN0333, UN0334, or UN0335 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of the effective date of this section, and including fused setpieces containing components which exceed 50 mg of salute powder.

Sec. 6. RCW 70.77.136 and 1995 c 61 s 5 are each amended to read as follows:

~~"((Common)) Consumer fireworks" means ((any fireworks which are designed primarily for retail sale to the public during prescribed dates and which produce visual or audible effects through combustion and are classified as common fireworks by the United States bureau of explosives or in the regulations of the United States department of transportation and designated as U.N. 0336 1.4G as of April 17, 1995))~~ any small firework device designed to produce visible effects by combustion and which must comply with the construction, chemical composition, and labeling regulations of the United States consumer product safety commission, as set forth in 16 C.F.R. Parts 1500 and 1507 and including some small devices designed to produce audible effects, such as whistling devices, ground devices containing 50 mg or less of explosive materials, and aerial devices containing 130 mg or less of explosive materials and classified as fireworks UN0336 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of the effective date of this section, and not including fused setpieces containing components which together exceed 50 mg of salute powder.

NEW SECTION. Sec. 7. A new section is added to chapter 70.77 RCW to read as follows:

"Articles pyrotechnic" means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use which meet the weight limits for consumer fireworks but which are not labeled as such and which are classified as UN0431 or UN0432 by the United States department of transportation at 49 C.F.R. Sec. 172.101 as of the effective date of this section.

Sec. 8. RCW 70.77.141 and 1982 c 230 s 4 are each amended to read as follows:

"Agricultural and wildlife fireworks" includes fireworks devices distributed to farmers, ranchers, and growers through a wildlife management program

administered by the United States department of the interior or an equivalent state or local governmental agency.

Sec. 9. RCW 70.77.160 and 1997 c 182 s 1 are each amended to read as follows:

"Public display of fireworks" means an entertainment feature where the public is or could be admitted or allowed to view the display or discharge of ~~((special))~~ display fireworks.

Sec. 10. RCW 70.77.170 and 1995 c 369 s 44 are each amended to read as follows:

"License" means a nontransferable formal authorization which the chief of the Washington state patrol ~~((and)),~~ through the director of fire protection ~~((are permitted)),~~ is authorized to issue under this chapter to allow a person to engage in the act specifically designated therein.

Sec. 11. RCW 70.77.175 and 1961 c 228 s 12 are each amended to read as follows:

"Licensee" means any person ~~((holding))~~ issued a fireworks license in conformance with this chapter.

Sec. 12. RCW 70.77.180 and 1995 c 61 s 9 are each amended to read as follows:

"Permit" means the official ~~((permission))~~ authorization granted by a ~~((local public agency))~~ city or county for the purpose of establishing and maintaining a place within the jurisdiction of the ~~((local agency))~~ city or county where fireworks are manufactured, constructed, produced, packaged, stored, sold, or exchanged and the official ~~((permission))~~ authorization granted by a ~~((local agency))~~ city or county for a public display of fireworks.

NEW SECTION. Sec. 13. A new section is added to chapter 70.77 RCW to read as follows:

"Permittee" means any person issued a fireworks permit in conformance with this chapter.

Sec. 14. RCW 70.77.205 and 1995 c 61 s 11 are each amended to read as follows:

"Manufacturer" includes any person who manufactures, makes, constructs, fabricates, or produces any fireworks article or device but does not include persons who assemble or fabricate sets or mechanical pieces in public displays of fireworks or persons who assemble ~~((common))~~ consumer fireworks items or sets or packages containing ~~((common))~~ consumer fireworks items.

Sec. 15. RCW 70.77.210 and 1982 c 230 s 9 are each amended to read as follows:

"Wholesaler" includes any person who sells fireworks to a retailer or any other person for resale and any person who sells ~~((special))~~ display fireworks to public display licensees.

Sec. 16. RCW 70.77.215 and 1982 c 230 s 10 are each amended to read as follows:

"Retailer" includes any person who, at a fixed location or place of business, offers for sale, sells, (~~transfers, or gives common~~), or exchanges for consideration consumer fireworks to a consumer or user.

Sec. 17. RCW 70.77.230 and 1982 c 230 s 11 are each amended to read as follows:

"Pyrotechnic operator" includes any individual who by experience and training has demonstrated the required skill and ability for safely setting up and discharging (~~(public displays of special)~~) display fireworks.

Sec. 18. RCW 70.77.236 and 1997 c 182 s 4 are each amended to read as follows:

(1) "New fireworks item" means any fireworks initially classified or reclassified as (~~(special or common)~~) articles pyrotechnic, display fireworks, or consumer fireworks by (~~(the United States bureau of explosives or in the regulations of)~~) the United States department of transportation after (~~(April 17, 1995)~~) the effective date of this section, and which comply with the construction, chemical composition, and labeling regulations of the United States consumer products safety commission, 16 C.F.R., Parts 1500 and 1507.

(2) The chief of the Washington state patrol, through the director of fire protection, shall classify any new fireworks item in the same manner as the item is classified by (~~(the United States bureau of explosives or in the regulations of)~~) the United States department of transportation(~~(, unless)~~) and the United States consumer product safety commission. The chief of the Washington state patrol, through the director of fire protection, may determine(~~(s)~~), stating reasonable grounds, that the item should not be so classified.

Sec. 19. RCW 70.77.250 and 1997 c 182 s 5 are each amended to read as follows:

(1) The chief of the Washington state patrol, through the director of fire protection, shall enforce and administer this chapter.

(2) The chief of the Washington state patrol, through the director of fire protection, shall appoint such deputies and employees as may be necessary and required to carry out the provisions of this chapter.

(3) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules relating to fireworks as are necessary for the implementation of this chapter.

(4) The chief of the Washington state patrol, through the director of fire protection, shall adopt those rules as are necessary to ensure statewide minimum standards for the enforcement of this chapter. Counties(~~(;)~~) and cities(~~(, and towns)~~) shall comply with these state rules. Any (~~(local rules)~~) ordinances adopted by (~~(local authorities)~~) a county or city that are more restrictive than state law shall have an effective date no sooner than one year after their adoption.

(5) The chief of the Washington state patrol, through the director of fire protection, may exercise the necessary police powers to enforce the criminal provisions of this chapter. This grant of police powers does not prevent any other state agency and city, county, or local government agency having general law enforcement powers from enforcing this chapter within the jurisdiction of the agency and city, county, or local government.

(6) The chief of the Washington state patrol, through the director of fire protection, shall adopt rules necessary to enforce the civil penalty provisions for the violations of this chapter. A civil penalty under this subsection may not exceed one thousand dollars per day for each violation and is subject to the procedural requirements under section 20 of this act.

(7) The chief of the Washington state patrol, through the director of fire protection, may investigate or cause to be investigated all fires resulting, or suspected of resulting, from the use of fireworks.

NEW SECTION. **Sec. 20.** A new section is added to chapter 70.77 RCW to read as follows:

(1) The penalty provided for in RCW 70.77.250(6) shall be imposed by a notice in writing to the person against whom the civil fine is assessed and shall describe the violation with reasonable particularity. The notice shall be personally served in the manner of service of a summons in a civil action or in a manner which shows proof of receipt. Any penalty imposed by RCW 70.77.250(6) shall become due and payable twenty-eight days after receipt of notice unless application for remission or mitigation is made as provided in subsection (2) of this section or unless application for an adjudicative proceeding is filed as provided in subsection (3) of this section.

(2) Within fourteen days after the notice is received, the person incurring the penalty may apply in writing to the chief of the Washington state patrol, through the director of fire protection, for the remission or mitigation of the penalty. Upon receipt of the application, the chief of the Washington state patrol, through the director of fire protection, may remit or mitigate the penalty upon whatever terms the chief of the Washington state patrol, through the director of fire protection, deems proper, giving consideration to the degree of hazard associated with the violation. The chief of the Washington state patrol, through the director of fire protection, may only grant a remission or mitigation that it deems to be in the best interests of carrying out the purposes of this chapter. The chief of the Washington state patrol, through the director of fire protection, may ascertain the facts regarding all such applications in a manner it deems proper. When an application for remission or mitigation is made, any penalty incurred under RCW 70.77.250(6) becomes due and payable twenty-eight days after receipt of the notice setting forth the disposition of the application, unless an application for an adjudicative proceeding to contest the disposition is filed as provided in subsection (3) of this section.

(3) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the chief of the Washington state patrol, through the director of fire protection.

(4) Any penalty imposed by final order following an adjudicative proceeding becomes due and payable upon service of the final order.

(5) The attorney general may bring an action in the name of the chief of the Washington state patrol, through the director of fire protection, in the superior court of Thurston county or of any county in which the violator may do business to collect any penalty imposed under this chapter.

(6) All penalties imposed under this section shall be paid to the state treasury and credited to the fire services trust fund and used as follows: At least fifty percent is for a statewide public education campaign developed by the chief of the Washington state patrol, through the director of fire protection, and the licensed fireworks industry emphasizing the safe and responsible use of legal fireworks; and the remainder is for statewide efforts to enforce this chapter.

Sec. 21. RCW 70.77.255 and 1997 c 182 s 6 are each amended to read as follows:

(1) Except as otherwise provided in this chapter, no person, without appropriate state licenses and city or county permits as required by this chapter may:

(a) Manufacture, import, possess, or sell any fireworks at wholesale or retail for any use;

(b) Make a public display of fireworks;

(c) Transport fireworks, except as a licensee or as a public carrier delivering to a licensee; or

(d) Knowingly manufacture, import, transport, store, sell, or possess with intent to sell, as fireworks, explosives, as defined under RCW 70.74.010, that are not fireworks, as defined under this chapter.

(2) Except as authorized by a license and permit under subsection (1)(b) of this section or as provided in RCW 70.77.311, no person may discharge ~~((special))~~ display fireworks at any place.

(3) No person less than eighteen years of age may apply for or receive a license or permit under this chapter.

(4) No license or permit is required for the possession or use of ~~((common))~~ consumer fireworks lawfully purchased at retail.

Sec. 22. RCW 70.77.270 and 1997 c 182 s 8 are each amended to read as follows:

(1) The governing body of a city or county, or a designee, shall grant an application for a permit under RCW 70.77.260(1) if the application meets the standards under this chapter, and the applicable ordinances of the city or county. The permit shall be granted by June 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing on June 28 and

on December 27; or by December 10, or no less than thirty days after receipt of an application whichever date occurs first, for sales commencing only on December 27.

(2) The chief of the Washington state patrol, through the director of fire protection, shall prescribe uniform, statewide standards for retail fireworks stands including, but not limited to, the location of the stands, setback requirements and siting of the stands, types of buildings and construction material that may be used for the stands, use of the stands and areas around the stands, cleanup of the area around the stands, transportation of fireworks to and from the stands, and temporary storage of fireworks associated with the retail fireworks stands. All cities and counties which allow retail fireworks sales shall comply with these standards.

(3) No retail fireworks permit may be issued to any applicant unless the retail fireworks stand is covered by a liability insurance policy with coverage of not less than fifty thousand dollars and five hundred thousand dollars for bodily injury liability for each person and occurrence, respectively, and not less than fifty thousand dollars for property damage liability for each occurrence, unless such insurance is not readily available from at least three approved insurance companies. If insurance in this amount is not offered, each fireworks permit shall be covered by a liability insurance policy in the maximum amount offered by at least three different approved insurance companies.

No wholesaler may knowingly sell or supply fireworks to any retail fireworks ~~((stand)) licensee~~ unless the wholesaler determines that the retail fireworks ~~((stand)) licensee~~ is covered by liability insurance in the same, or greater, amount as provided in this subsection.

Sec. 23. RCW 70.77.305 and 1995 c 369 s 46 are each amended to read as follows:

The chief of the Washington state patrol, through the director of fire protection, has the power to issue licenses for the manufacture, importation, sale, and use of all fireworks in this state, except as provided in RCW 70.77.311 and 70.77.395. A person may be licensed as a manufacturer, importer, or wholesaler under this chapter only if the person has a designated agent in this state who is registered with the chief of the Washington state patrol, through the director of fire protection.

Sec. 24. RCW 70.77.311 and 1995 c 61 s 17 are each amended to read as follows:

(1) No license is required for the purchase of agricultural and wildlife fireworks by government agencies if:

(a) The agricultural and wildlife fireworks are used for wildlife control or are distributed to farmers, ranchers, or growers through a wildlife management program administered by the United States department of the interior or an equivalent state or local governmental agency;

(b) The distribution is in response to a written application describing the wildlife management problem that requires use of the devices;

(c) It is of no greater quantity than necessary to control the described problem; and

(d) It is limited to situations where other means of control are unavailable or inadequate.

(2) No license is required for religious organizations or private organizations or persons to purchase or use (~~common~~) consumer fireworks and such audible ground devices as firecrackers, salutes, and chasers if:

(a) Purchased from a licensed manufacturer, importer, or wholesaler;

(b) For use on prescribed dates and locations;

(c) For religious or specific purposes; and

(d) A permit is obtained from the local fire official. No fee may be charged for this permit.

Sec. 25. RCW 70.77.315 and 1997 c 182 s 10 are each amended to read as follows:

Any person who desires to engage in the manufacture, importation, sale, or use of fireworks, except use as provided in RCW 70.77.255(4) (~~and~~), 70.77.311, and 70.77.395, shall make a written application to the chief of the Washington state patrol, through the director of fire protection, on forms provided by him or her. Such application shall be accompanied by the annual license fee as prescribed in this chapter.

Sec. 26. RCW 70.77.330 and 1995 c 369 s 48 are each amended to read as follows:

If the chief of the Washington state patrol, through the director of fire protection, finds that the granting of such license (~~would~~) is not (~~be~~) contrary to public safety or welfare, he or she shall issue a license authorizing the applicant to engage in the particular act or acts upon the payment of the license fee specified in this chapter. Licensees may transport the class of fireworks for which they hold a valid license.

Sec. 27. RCW 70.77.335 and 1982 c 230 s 23 are each amended to read as follows:

The authorization to engage in the particular act or acts conferred by a license to a person shall extend to (~~salesmen~~) sellors, authorized representatives, and other employees of such person.

Sec. 28. RCW 70.77.340 and 1982 c 230 s 24 are each amended to read as follows:

The original and annual license fee shall be as follows:

Manufacturer	\$	500.00
Importer		100.00
Wholesaler		1,000.00
Retailer (for each separate retail outlet)		10.00

Public display for ((special)) <u>display</u>	
fireworks	10.00
Pyrotechnic operator for ((special)) <u>display</u>	
fireworks	5.00

Sec. 29. RCW 70.77.343 and 1997 c 182 s 12 are each amended to read as follows:

(1) License fees, in addition to the fees in RCW 70.77.340, shall be charged as follows:

Manufacturer	\$	1,500.00
Importer		900.00
Wholesaler		1,000.00
Retailer (for each separate outlet)		30.00
Public display for ((special)) <u>display</u>		
fireworks		40.00
Pyrotechnic operator for ((special)) <u>display</u>		
fireworks		5.00

(2) All receipts from the license fees in this section shall be placed in the fire services trust fund and at least seventy-five percent of these receipts shall be used to fund a statewide public education campaign developed by the chief of the Washington state patrol and the licensed fireworks industry emphasizing the safe and responsible use of legal fireworks and the remaining receipts shall be used to fund statewide enforcement efforts against the sale and use of fireworks that are illegal under this chapter.

Sec. 30. RCW 70.77.381 and 1995 c 61 s 27 are each amended to read as follows:

(1) Every wholesaler shall carry liability insurance for each wholesale and retail fireworks outlet it operates in the amount of not less than fifty thousand dollars and five hundred thousand dollars for bodily injury liability for each person and occurrence, respectively, and not less than fifty thousand dollars for property damage liability for each occurrence, unless such insurance is not available from at least three approved insurance companies. If insurance in this amount is not offered, each wholesale and retail outlet shall be covered by a liability insurance policy in the maximum amount offered by at least three different approved insurance companies.

(2) No wholesaler may knowingly sell or supply fireworks to any retail ((outlet)) licensee unless the wholesaler determines that the retail ((outlet)) licensee carries liability insurance in the same, or greater, amount as provided in subsection (1) of this section.

Sec. 31. RCW 70.77.395 and 1995 c 61 s 22 are each amended to read as follows:

(1) It is legal to sell(;) and purchase(~~(-use, and discharge common)~~) consumer fireworks within this state from twelve o'clock noon to eleven o'clock

p.m. on the twenty-eighth of June, from nine o'clock a.m. to eleven o'clock p.m. on each day from the twenty-ninth of June through the fourth of July, from nine o'clock a.m. to ((twelve)) nine o'clock ((noon)) p.m. on the ((sixth)) fifth of July ((of each year)), from twelve o'clock noon to eleven o'clock p.m. on each day from the twenty-seventh of December through the thirty-first of December of each year, and as provided in RCW 70.77.311. ((However, no common))

(2) Consumer fireworks may be ((sold)) used or discharged each day between the hours of twelve o'clock noon and eleven o'clock p.m. ((and nine o'clock a.m.)) on the twenty-eighth of June and between the hours of nine o'clock a.m. and eleven o'clock p.m. on the twenty-ninth of June to the third of July, ((except)) and on July 4th ((from)) between the hours of nine o'clock a.m. ((through)) and twelve o'clock midnight, and between the hours of nine o'clock a.m. and eleven o'clock p.m. on July 5th, and ((except)) from six o'clock p.m. on December 31st until one o'clock a.m. on January 1st of the subsequent year((- PROVIDED, That a city or county may prohibit the sale or discharge of common fireworks on December 31, 1995, by enacting an ordinance prohibiting such sale or discharge within sixty days of April 17, 1995)), and as provided in RCW 70.77.311.

(3) A city or county may enact an ordinance within sixty days of the effective date of this act to limit or prohibit the sale, purchase, possession, or use of consumer fireworks on December 27, 2002, through December 31, 2002, and thereafter as provided in RCW 70.77.250(4).

Sec. 32. RCW 70.77.401 and 1995 c 61 s 7 are each amended to read as follows:

No fireworks may be sold or offered for sale to the public as ((common)) consumer fireworks which are classified as sky rockets, or missile-type rockets, firecrackers, salutes, or chasers as defined by the United States department of transportation and the federal consumer products safety commission except as provided in RCW 70.77.311.

Sec. 33. RCW 70.77.405 and 1982 c 230 s 32 are each amended to read as follows:

Toy paper caps containing not more than twenty-five hundredths grain of explosive compound for each cap and trick or novelty devices not classified as ((common)) consumer fireworks may be sold at all times unless prohibited by local ordinance.

NEW SECTION. Sec. 34. A new section is added to chapter 70.77 RCW to read as follows:

(1) "Permanent storage" means storage of display fireworks at any time and/or storage of consumer fireworks at any time other than the periods allowed under RCW 70.77.420(2) and 70.77.425 and which shall be in compliance with the requirements of chapter 70.74 RCW.

(2) "Temporary storage" means the storage of consumer fireworks during the periods allowed under RCW 70.77.420(2) and 70.77.425.

Sec. 35. RCW 70.77.420 and 1997 c 182 s 18 are each amended to read as follows:

(1) It is unlawful for any person to store permanently fireworks of any class without a permit for such permanent storage from the city or county in which the storage is to be made. A person proposing to store permanently fireworks shall apply in writing to a city or county at least ten days prior to the date of the proposed permanent storage. The city or county receiving the application for a permanent storage permit shall investigate whether the character and location of the permanent storage as proposed ~~((would))~~ meets the requirements of the zoning, building, and fire codes or constitutes a hazard to property or ~~((be))~~ is dangerous to any person. Based on the investigation, the city or county may grant or deny the application. The city or county may place reasonable conditions on any permit granted.

(2) For the purposes of this section the temporary storing or keeping of ~~((common))~~ consumer fireworks when in conjunction with a valid retail sales license and permit shall comply with RCW 70.77.425 and the standards adopted under RCW 70.77.270(2) and not this section.

Sec. 36. RCW 70.77.425 and 1984 c 249 s 27 are each amended to read as follows:

It is unlawful for any person to store ~~((unsold))~~ permanently stocks of fireworks remaining unsold after the lawful period of sale as provided in the person's permit except in such places of permanent storage as the ~~((local fire official))~~ city or county issuing the permit approves. Unsold stocks of ~~((common))~~ consumer fireworks remaining after the authorized retail sales period from ~~((twelve))~~ nine o'clock ~~((noon))~~ a.m. on June 28th to twelve o'clock noon on July ~~((6th))~~ 5th shall be returned on or before July 31st of the same year, or remaining after the authorized retail sales period from twelve o'clock noon on December 27th to eleven o'clock p.m. on December 31st shall be returned on or before January 10th of the subsequent year. to the approved permanent storage facilities of a licensed fireworks wholesaler(;) or to a magazine or permanent storage place approved by a local fire official.

Sec. 37. RCW 70.77.435 and 1997 c 182 s 20 are each amended to read as follows:

Any fireworks which are illegally sold, offered for sale, used, discharged, possessed, or transported in violation of the provisions of this chapter or the rules or regulations of the chief of the Washington state patrol, through the director of fire protection, ~~((shall be))~~ are subject to seizure by the chief of the Washington state patrol, through the director of fire protection, or his or her deputy, or by state agencies or local governments having general law enforcement authority. ~~((Any fireworks seized by legal process anywhere in the state may be disposed of by the chief of the Washington state patrol, through the director of fire protection, or the agency conducting the seizure, by summary destruction at any time subsequent to~~

~~thirty days from such seizure or ten days from the final termination of proceedings under the provisions of RCW 70.77.440, whichever is later.))~~

Sec. 38. RCW 70.77.440 and 1997 c 182 s 21 are each amended to read as follows:

(1) In the event of seizure under RCW 70.77.435, proceedings for forfeiture shall be deemed commenced by the seizure. The chief of the Washington state patrol or a designee, through the director of fire protection or the agency conducting the seizure, under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the fireworks seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure.

(2) If any person notifies the chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, in writing of the person's claim of lawful ownership or right to lawful possession of seized fireworks within thirty days of the seizure, the seized fireworks shall be deemed forfeited.

(3) If any person notifies the chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, in writing of the person's claim of lawful ownership or possession of the fireworks within thirty days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the seized fireworks is more than five hundred dollars. The hearing before an administrative law judge and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to have the lawful right to possession of the seized fireworks. The chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, shall promptly return the fireworks to the claimant upon a determination by the administrative law judge or court that the claimant is lawfully entitled to possession of the fireworks.

(4) When fireworks are forfeited under this chapter the chief of the Washington state patrol, through the director of fire protection or the agency conducting the seizure, may:

(a) Dispose of the fireworks by summary destruction at any time subsequent to thirty days from such seizure or ten days from the final termination of proceedings under this section, whichever is later; or

(b) Sell the forfeited fireworks and chemicals used to make fireworks, that are legal for use and possession under this chapter, to wholesalers or manufacturers, authorized to possess and use such fireworks or chemicals under a license issued by the chief of the Washington state patrol, through the director of fire protection. Sale shall be by public auction after publishing a notice of the date, place, and time of the auction in a newspaper of general circulation in the county in which the auction is to be held, at least three days before the date of the auction. The proceeds of the sale of the seized fireworks under this section may be retained by the agency conducting the seizure and used to offset the costs of seizure and/or storage costs of the seized fireworks. The remaining proceeds, if any, shall be deposited in the fire services trust fund and shall be used ~~((for the same purposes and in the same percentages as specified in RCW 70.77.343))~~ as follows: At least fifty percent is for a statewide public education campaign developed by the chief of the Washington state patrol, through the director of fire protection, and the licensed fireworks industry emphasizing the safe and responsible use of legal fireworks; and the remainder is for statewide efforts to enforce this chapter.

Sec. 39. RCW 70.77.495 and 1988 c 128 s 11 are each amended to read as follows:

~~((Nothing in this chapter shall be construed as permitting))~~ It is unlawful for 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 Washington state department of natural resources or its duly authorized agent, and in strict accordance with the terms of the permit and any other applicable law.

Sec. 40. RCW 70.77.510 and 1984 c 249 s 31 are each amended to read as follows:

It is unlawful for any person knowingly to sell, transfer, or agree to sell or transfer any ~~((special))~~ display fireworks to any person who is not a fireworks licensee as provided for by this chapter. A violation of this section is a gross misdemeanor.

Sec. 41. RCW 70.77.515 and 1984 c 249 s 32 are each amended to read as follows:

(1) It is unlawful for any person to offer for sale, sell ((or transfer)), or exchange for consideration, any ((common)) consumer fireworks to a consumer or user other than at a fixed place of business of a retailer for which a license and permit have been issued.

(2) No licensee may sell any fireworks to any person under the age of sixteen.

(3) A violation of this section is a gross misdemeanor.

Sec. 42. RCW 70.77.517 and 1984 c 249 s 34 are each amended to read as follows:

It is unlawful for any person, except in the course of continuous interstate transportation through any state, to transport fireworks from this state into any

other state, or deliver them for transportation into any other state, or attempt so to do, knowing that such fireworks are to be delivered, possessed, stored, transshipped, distributed, sold, or otherwise dealt with in a manner or for a use prohibited by the laws of such other state specifically prohibiting or regulating the use of fireworks. A violation of this section is a gross misdemeanor.

This section does not apply to a common or contract carrier or to international or domestic water carriers engaged in interstate commerce or to the transportation of fireworks into a state for the use of ~~((federal))~~ United States agencies in the carrying out or the furtherance of their operations.

In the enforcement of this section, the definitions of fireworks contained in the laws of the respective states shall be applied.

As used in this section, the term "state" includes the several states, territories, and possessions of the United States, and the District of Columbia.

Sec. 43. RCW 70.77.520 and 1984 c 249 s 33 are each amended to read as follows:

It is unlawful for any person to allow any ~~((rubbish))~~ combustibles to accumulate in any premises in which fireworks are stored or sold or to permit a fire nuisance to exist in such a premises. A violation of this section is a misdemeanor.

Sec. 44. RCW 70.77.535 and 1994 c 133 s 14 are each amended to read as follows:

~~((This chapter does not prohibit))~~ The assembling, compounding, use, and display of articles pyrotechnic or special effects ~~((by any person engaged))~~ in the production of motion pictures, radio or television productions, or live entertainment ~~((when such use and display is an integral part of the production and such person))~~ shall be under the direction and control of a pyrotechnic operator licensed by the state of Washington and who possesses a valid permit from the ~~((local fire official))~~ city or county.

Sec. 45. RCW 70.77.555 and 1995 c 61 s 26 are each amended to read as follows:

(1) A ~~((local public agency))~~ city or county may provide by ordinance for a fee in an amount sufficient to cover all legitimate costs for all needed permits ~~((and local))~~, licenses, and authorizations from application to and through processing, issuance, and inspection, but in no case to exceed a total of one hundred dollars for any one ~~((year))~~ retail sales permit for any one selling season in a year, whether June 28th through July 5th or December 27th through December 31st, or a total of two hundred dollars for both selling seasons.

(2) A city or county may provide by ordinance for a fee in an amount sufficient to cover all legitimate costs for all display permits, licenses, and authorizations from application to and through processing, issuance, and inspection, not to exceed actual costs and in no case more than a total of five thousand dollars for any one display permit.

Sec. 46. RCW 70.77.575 and 1995 c 369 s 57 are each amended to read as follows:

(1) The chief of the Washington state patrol, through the director of fire protection, shall adopt by rule a list of the consumer fireworks that may be sold to the public in this state pursuant to this chapter. The chief of the Washington state patrol, through the director of fire protection, shall file the list by October 1st of each year with the code reviser for publication, unless the previously published list has remained current.

(2) The chief of the Washington state patrol, through the director of fire protection, shall provide the list adopted under subsection (1) of this section by November 1st of each year to all manufacturers, wholesalers, and importers licensed under this chapter, unless the previously distributed list has remained current.

Sec. 47. RCW 70.77.580 and 1995 c 369 s 58 are each amended to read as follows:

Retailers required to be licensed under this chapter shall post prominently at each retail (~~outlet~~) location a list of the consumer fireworks that may be sold to the public in this state pursuant to this chapter. The posted list shall be in a form approved by the chief of the Washington state patrol, through the director of fire protection. The chief of the Washington state patrol, through the director of fire protection, shall make the list available (~~the list~~).

NEW SECTION. Sec. 48. A new section is added to chapter 70.77 RCW to read as follows:

Civil proceedings to enforce this chapter may be brought in the superior court of Thurston county or the county in which the violation occurred by the attorney general or the attorney of the city or county in which the violation occurred on his or her own motion or at the request of the chief of the Washington state patrol, through the director of fire protection.

NEW SECTION. Sec. 49. A new section is added to chapter 70.77 RCW to read as follows:

In addition to criminal penalties, a person who violates this chapter is also liable for a civil penalty and for the costs incurred with enforcing this chapter and bringing the civil action, including court costs and reasonable investigative and attorneys' fees.

NEW SECTION. Sec. 50. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 11, 2002.

Passed the House March 6, 2002.

Approved by the Governor April 5, 2002.

Filed in Office of Secretary of State April 5, 2002.

CHAPTER 371

[Engrossed Substitute Senate Bill 6387]

FISCAL MATTERS

AN ACT Relating to fiscal matters; amending RCW 9.46.100, 28B.50.837, 38.52.105, 38.52.106, 38.52.540, 41.06.150, 43.10.220, 43.30.360, 43.72.900, 43.83B.430, 43.88.030, 43.320.110, 48.02.190, 50.20.190, 51.44.170, 66.08.170, 66.08.235, 67.70.260, 70.146.030, 70.168.040, 79.24.580, 80.01.080, and 82.29A.080; amending 2001 2nd sp.s. c 7 ss 101, 102, 103, 104, 105, 106, 107, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 142, 143, 144, 147, 148, 149, 151, 152, 153, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 301, 302, 303, 304, 305, 306, 307, 308, 309, 401, 402, 501, 502, 503, 504, 505, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 519, 521, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 701, 702, 703, 704, 706, 713, 716, 717, 719, 720, 722, 723, 724, 727, 728, 730, 705, 801, and 805 (uncodified); reenacting and amending RCW 50.16.010 and 69.50.520; adding new sections to 2001 2nd sp.s. c 7 (uncodified); making appropriations; and declaring an emergency.

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

PART I

GENERAL GOVERNMENT

Sec. 101. 2001 2nd sp.s. c 7 s 101 (uncodified) is amended to read as follows:

FOR THE HOUSE OF REPRESENTATIVES

General Fund—State Appropriation (FY 2002) \$	28,313,000
General Fund—State Appropriation (FY 2003) \$	((28,497,000))
	<u>27,072,000</u>
Department of Retirement Systems Expense Account—	
State Appropriation \$	45,000
TOTAL APPROPRIATION \$	((56,855,000))
	<u>55,430,000</u>

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

- (1) \$25,000 of the general fund—state appropriation is provided solely for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.
- (2) \$15,000 of the general fund—state appropriation for fiscal year 2002 is provided for the legislature to continue the services of expert counsel on legal and policy issues relating to services for persons with developmental disabilities.

Sec. 102. 2001 2nd sp.s. c 7 s 102 (uncodified) is amended to read as follows:

FOR THE SENATE

General Fund—State Appropriation (FY 2002) \$	22,863,000
General Fund—State Appropriation (FY 2003) \$	((23,999,000))
	<u>22,799,000</u>
Department of Retirement Systems Expense Account—	
State Appropriation \$	45,000
TOTAL APPROPRIATION \$	((46,907,000))
	<u>45,707,000</u>

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

(1) \$25,000 of the general fund—state appropriation is provided solely for allocation to Project Citizen, a program of the national conference of state legislatures to promote student civic involvement.

(2) \$15,000 of the general fund—state appropriation for fiscal year 2002 is provided for the legislature to continue the services of expert counsel on legal and policy issues relating to services for persons with developmental disabilities.

*Sec. 103. 2001 2nd sp.s. c 7 s 103 (uncodified) is amended to read as follows:

FOR THE JOINT LEGISLATIVE AUDIT AND REVIEW COMMITTEE	
General Fund—State Appropriation (FY 2002) \$	((2,436,000))
	<u>2,131,000</u>
<i>General Fund—State Appropriation (FY 2003) \$</i>	<i>((1,938,000))</i>
	<u>2,150,000</u>
TOTAL APPROPRIATION \$	((4,374,000))
	<u>4,281,000</u>

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

(1) ~~(\$150,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the joint legislative audit and review committee to conduct an evaluation of the client outcomes of the high school transition program operated by the department of social and health services division of developmental disabilities. The study shall identify the different approaches that have been used in providing transition services and whether some approaches are more or less successful in helping young adults with developmental disabilities achieve greater levels of independence. The study shall evaluate how transition programs reduce the level of support provided to clients as they achieve greater levels of independence, and shall be submitted to the appropriate committees of the legislature by December 1, 2002.)~~ \$130,000 of the general fund—state appropriation for fiscal year 2002 and \$470,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for conducting a performance audit of the department of social and health services division of developmental disabilities. The audit shall determine whether the division has complied with significant laws and regulations applicable to the program and evaluate the adequacy of management processes for measuring, reporting, and monitoring program effectiveness, economy, and efficiency.

(a) Special emphasis shall be placed on how the division:

(i) Determines and monitors eligibility;

(ii) Determines what types and levels of services are to be provided;

(iii) Determines that clients are receiving services;

(iv) Tracks client progress and evaluates the benefits of services being provided;

(v) Enforces the terms of its contracts with providers; and

(vi) Determines it is doing an efficient and effective job of meeting its legislative mandates.

(b) The audit shall also include a comparison among the division of developmental disabilities and other program areas in the department of social and health services that deliver similar client services. This comparison shall cover eligibility assessment, functional needs assessment, service requirements assessment, and the linkage between assessed client needs and the agency services authorized and delivered.

(c) The committee shall make recommendations, as appropriate, for the improvement of services and system performance. The committee may contract for consulting services in conducting the study. Interim findings shall be submitted to the fiscal committees of the legislature by December 1, 2002. The final report shall be submitted to the legislature no later than June 30, 2003.

(2) \$50,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the joint legislative audit and review committee to conduct a capacity planning study of the capital facilities of the state school for the deaf. The committee's study shall be carried out in conjunction with the study of educational service delivery models conducted by the state institute for public policy. The study shall be submitted to the fiscal committees of the legislature by September 30, 2002.

~~(3) (\$35,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for)~~ The joint legislative audit and review committee ~~((to))~~ shall conduct a review of water conservancy boards. The review shall include an assessment of the operating costs of existing boards; the sources of funding for board operations; sources of in-kind support for board operations; assessment of the value of water rights subject to change or transfer decisions; the range of costs of processing water right transfer applications by the boards as well as by the department of ecology for applications filed directly with the department; the costs to the department of training, assistance, and review of board recommendations on applications; board membership and board recordkeeping; and public participation procedures for both the water conservancy boards and the department of ecology. The committee shall submit its review by ~~((January 1, 2003))~~ December 1, 2004, to the appropriate policy and fiscal committees of the legislature.

(4) \$40,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for a follow-up review to report number 98-3, the performance audit of the department of corrections. The follow-up study shall include but not be limited to a review of:

(a) Community supervision activities performed by the department;

(b) The implementation of risk-based classification and community placement models;

- (c) The early implementation of the offender accountability act; and
- (d) The cost impacts of the risk-based models and the offender accountability act.

The committee shall consult with the Washington state institute for public policy regarding data and findings from the institute's current studies on these issues. A report of the follow-up study shall be submitted to the relevant policy and fiscal committees of the legislature by December 21, 2001. Upon the completion of the follow-up review, the committee shall make a determination whether an additional phase of study is needed. If further study is indicated, the committee shall submit to the relevant policy and fiscal committees of the legislature its plan and cost estimate for such study by March 29, 2002.

(5) \$140,000 of the general fund—state appropriation for fiscal year 2002 is provided for a study of children's mental health in Washington. The study shall include but not be limited to:

- (a) A review of plans and services for children, including those for early periodic screening, diagnosis, and treatment;
- (b) A review of the implementation of the plans;
- (c) A review of the availability and reliability of fiscal, program, and outcome data relating to mental health services provided to children; and
- (d) A survey of mental health services for children among the state's regional support networks.

The committee shall make recommendations, as appropriate, for the improvement of services and system performance, including the need for performance and client outcome measures. The committee may contract for consulting services in conducting the study. The committee shall submit a report to the appropriate policy and fiscal committees of the legislature by July 1, 2002.

(6) Within the amounts provided in this section, the joint legislative audit and review committee shall conduct a study of the Washington management service. The study shall include findings regarding (a) growth in the number of positions in the Washington management service, (b) growth in salary levels and structure since the Washington management service's inception, and (c) other compensation practices used within the Washington management service. The department of personnel shall cooperate with the committee in conducting the study and provide information as requested by the committee. The committee shall provide a report to the fiscal committees of the legislature by December 31, 2001.

(7) Within the amounts provided in this section, the joint legislative audit and review committee shall review all aspects of the mental health prevalence study completed in accordance with section 204 of this act, including but not limited to the contractor selection process, if any; the study design and workplan; the implementation of the study; and the draft and final reports.

(8) The committee shall study and report on pipeline safety as provided in section 149 of this act.

***Sec. 103 was partially vetoed. See message at end of chapter.**

Sec. 104. 2001 2nd sp.s. c 7 s 104 (uncodified) is amended to read as follows:
FOR THE LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

General Fund—State Appropriation (FY 2002) \$	1,329,000
General Fund—State Appropriation (FY 2003) \$	((1,462,000))
	<u>1,418,000</u>
Public Works Assistance Account—State	
Appropriation \$	203,000
TOTAL APPROPRIATION \$	((2,994,000))
	<u>2,950,000</u>

Sec. 105. 2001 2nd sp.s. c 7 s 105 (uncodified) is amended to read as follows:
FOR THE OFFICE OF THE STATE ACTUARY

Department of Retirement Systems Expense Account—	
State Appropriation \$	((1,923,000))
	<u>2,054,000</u>

The appropriation in this section is subject to the following conditions and limitations: The joint committee on pension policy, in collaboration with various interested parties, shall study issues of pension governance and recommend legislation for consideration in the 2002 legislative session.

Sec. 106. 2001 2nd sp.s. c 7 s 106 (uncodified) is amended to read as follows:
FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE

General Fund—State Appropriation (FY 2002) \$	6,421,000
General Fund—State Appropriation (FY 2003) \$	((7,043,000))
	<u>6,832,000</u>
TOTAL APPROPRIATION \$	((13,464,000))
	<u>13,253,000</u>

Sec. 107. 2001 2nd sp.s. c 7 s 107 (uncodified) is amended to read as follows:
FOR THE STATUTE LAW COMMITTEE

General Fund—State Appropriation (FY 2002) \$	3,909,000
General Fund—State Appropriation (FY 2003) \$	((4,038,000))
	<u>3,917,000</u>
TOTAL APPROPRIATION \$	((7,947,000))
	<u>7,826,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$41,000 of the general fund fiscal year 2002 appropriation and \$43,000 of the general fund fiscal year 2003 appropriation are provided solely for the uniform legislation commission.

Sec. 108. 2001 2nd sp.s. c 7 s 109 (uncodified) is amended to read as follows:
FOR THE SUPREME COURT

General Fund—State Appropriation (FY 2002) \$	((5,423,000))
	<u>5,500,000</u>

General Fund—State Appropriation (FY 2003) \$	((5,510,000))
	<u>5,487,000</u>
TOTAL APPROPRIATION \$	((10,933,000))
	<u>10,987,000</u>

Sec. 109. 2001 2nd sp.s. c 7 s 110 (uncodified) is amended to read as follows:

FOR THE LAW LIBRARY

General Fund—State Appropriation (FY 2002) \$	1,982,000
General Fund—State Appropriation (FY 2003) \$	((1,983,000))
	<u>1,924,000</u>
TOTAL APPROPRIATION \$	((3,965,000))
	<u>3,906,000</u>

Sec. 110. 2001 2nd sp.s. c 7 s 111 (uncodified) is amended to read as follows:

FOR THE COURT OF APPEALS

General Fund—State Appropriation (FY 2002) \$	((12,746,000))
	<u>12,894,000</u>
General Fund—State Appropriation (FY 2003) \$	((12,878,000))
	<u>12,724,000</u>
TOTAL APPROPRIATION \$	((25,624,000))
	<u>25,618,000</u>

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

(1) \$505,000 of the general fund—state appropriation for fiscal year 2002 and \$606,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for lease increases associated with the division I facility. ~~((Within the funds provided in this subsection, the court of appeals shall conduct a space planning study exploring options dealing with remodeling existing space to accommodate needs and evaluating the cost and benefits of moving to another location.))~~

(2) \$168,000 of the general fund—state appropriation for fiscal year 2002 and \$159,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for providing compensation adjustments to nonjudicial staff of the court of appeals. Within the funds provided in this subsection, the court of appeals shall determine the specific positions to receive compensation adjustments based on recruitment and retention difficulties, new duties or responsibilities assigned, and salary inversion or compression within the court of appeals.

Sec. 111. 2001 2nd sp.s. c 7 s 112 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON JUDICIAL CONDUCT

General Fund—State Appropriation (FY 2002) \$	955,000
General Fund—State Appropriation (FY 2003) \$	((969,000))
	<u>940,000</u>
TOTAL APPROPRIATION \$	((1,924,000))
	<u>1,895,000</u>

Sec. 112. 2001 2nd sp.s. c 7 s 113 (uncodified) is amended to read as follows:

FOR THE ADMINISTRATOR FOR THE COURTS

General Fund—State Appropriation (FY 2002) \$	((14,247,000))
	<u>14,900,000</u>
General Fund—State Appropriation (FY 2003) \$	((14,386,000))
	<u>15,388,000</u>
Public Safety and Education Account—State Appropriation \$	((29,634,000))
	<u>27,468,000</u>
Judicial Information Systems Account—State Appropriation \$	27,758,000
TOTAL APPROPRIATION \$	((86,025,000))
	<u>85,514,000</u>

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

(1) Funding provided in the judicial information systems account appropriation shall be used for the operations and maintenance of technology systems that improve services provided by the supreme court, the court of appeals, the office of public defense, and the administrator for the courts.

(2) No moneys appropriated in this section may be expended by the administrator for the courts for payments in excess of fifty percent of the employer contribution on behalf of superior court judges for insurance and health care plans and federal social security and medicare and medical aid benefits. As required by Article IV, section 13 of the state Constitution and 1996 Attorney General’s Opinion No. 2, it is the intent of the legislature that the costs of these employer contributions shall be shared equally between the state and county or counties in which the judges serve. The administrator for the courts shall continue to implement procedures for the collection and disbursement of these employer contributions. During each fiscal year in the 2001-03 biennium, the office of the administrator for the courts shall send written notice to the office of community development in the department of community, trade, and economic development when each county pays its fifty percent share for the year.

(3) \$223,000 of the public safety and education account appropriation is provided solely for the gender and justice commission.

(4) \$308,000 of the public safety and education account appropriation is provided solely for the minority and justice commission.

(5) \$278,000 of the general fund—state appropriation for fiscal year 2002, \$285,000 of the general fund—state appropriation for fiscal year 2003, and \$263,000 of the public safety and education account appropriation are provided solely for the workload associated with tax warrants and other state cases filed in Thurston county.

(6) \$750,000 of the general fund—state appropriation for fiscal year 2002 and \$750,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for court-appointed special advocates in dependency matters. The

administrator for the courts, after consulting with the association of juvenile court administrators and the association of court-appointed special advocate/guardian ad litem programs, shall distribute the funds to volunteer court-appointed special advocate/guardian ad litem programs. The distribution of funding shall be based on the number of children who need volunteer court-appointed special advocate representation and shall be equally accessible to all volunteer court-appointed special advocate/guardian ad litem programs. The administrator for the courts shall not retain more than six percent of total funding to cover administrative or any other agency costs.

(7) \$750,000 of the public safety and education account—state appropriation is provided solely for judicial program enhancements. Within the funding provided in this subsection, the administrator for the courts, in consultation with the supreme court, shall determine the program or programs to receive an enhancement. Among the programs that may be funded from the amount provided in this subsection are unified family courts.

(8) ~~(\$1,618,000 of the public safety and education account—state appropriation is provided solely for increases for juror pay. The office of the administrator for the courts may contract with local governments to provide additional juror pay. The contract shall provide that the local government is responsible for the first ten dollars of juror compensation for each day or partial day of jury service, and the state shall reimburse the local government for any additional compensation, excluding the first day, up to a maximum of fifteen dollars per day.)~~ \$1,800,000 of the judicial information systems account—state appropriation is provided solely for improvements and enhancements to the judicial information systems. This funding shall only be expended after the office of the administrator for the courts certifies to the office of financial management that there will be at least a \$1,000,000 ending fund balance in the judicial information systems account at the end of the 2001-03 biennium.

*Sec. 113. 2001 2nd sp.s. c 7 s 114 (uncodified) is amended to read as follows:

FOR THE OFFICE OF PUBLIC DEFENSE

General Fund—State Appropriation (FY 2002) \$	600,000
<u>General Fund—State Appropriation (FY 2003) \$</u>	<u>500,000</u>
Public Safety and Education Account—State	
Appropriation \$	(12,626,000)
	<u>12,344,000</u>
TOTAL APPROPRIATION \$	(13,226,000)
	<u>13,444,000</u>

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

(1) ~~(\$233,000)~~ \$204,000 of the public safety and education account appropriation is provided solely to increase the reimbursement for private attorneys providing constitutionally mandated indigent defense in nondeath penalty cases.

(2) \$51,000 of the public safety and education account appropriation is provided solely for the implementation of chapter 303, Laws of 1999 (court funding).

(3) Amounts provided from the public safety and education account appropriation in this section include funding for investigative services in death penalty personal restraint petitions.

(4) The ~~((entire))~~ general fund—state appropriations ~~((is))~~ are provided solely for the continuation of a dependency and termination legal representation funding pilot program.

(a) The goal of the pilot program shall be to enhance the quality of legal representation in dependency and termination hearings, thereby reducing the number of continuances requested by contract attorneys, including those based on the unavailability of defense counsel. To meet the goal, the pilot shall include the following components:

(i) A maximum caseload requirement of 90 dependency and termination cases per full-time attorney;

(ii) Implementation of enhanced defense attorney practice standards, including but not limited to those related to reasonable case preparation and the delivery of adequate client advice, as developed by Washington state public defense attorneys and included in the office of public defense December 1999 report *Costs of Defense and Children's Representation in Dependency and Termination Hearings*;

(iii) Use of investigative and expert services in appropriate cases; and

(iv) Effective implementation of indigency screening of all dependency and termination parents, guardians, and legal custodians represented by appointed counsel.

(b) The pilot program shall be established in one eastern and one western Washington juvenile court.

(c) The director shall contract for an independent evaluation of the pilot program benefits and costs. A final evaluation shall be submitted to the governor and the fiscal committees of the legislature no later than February 1, 2002.

(d) The chair of the office of public defense advisory committee shall appoint an implementation committee to:

(i) Develop criteria for a statewide program to improve dependency and termination defense;

(ii) Examine caseload impacts to the courts resulting from improved defense practices; and

(iii) Identify methods for the efficient use of expert services and means by which parents may effectively access services.

If sufficient funds are available, the office of public defense shall contract with the Washington state institute for public policy to research how reducing dependency and termination case delays affects foster care and to identify factors that are reducing the number of family reunifications that occur in dependency and termination cases.

(5) \$50,000 of the public safety and education account—state appropriation is provided solely for the evaluation required in chapter 92, Laws of 2000 (DNA testing).

(6) \$235,000 of the public safety and education account—state appropriation is provided solely for the office of public defense to contract with an existing public defender association to establish a capital defense assistance center.

*Sec. 113 was partially vetoed. See message at end of chapter.

Sec. 114. 2001 2nd sp.s. c 7 s 115 (uncodified) is amended to read as follows:

FOR THE OFFICE OF THE GOVERNOR

General Fund—State Appropriation (FY 2002) \$	((4,537,000))
	<u>4,497,000</u>
General Fund—State Appropriation (FY 2003) \$	((4,524,000))
	<u>4,028,000</u>
General Fund—Federal Appropriation \$	219,000
Water Quality Account—State	
Appropriation \$	3,908,000
TOTAL APPROPRIATION \$	((13,188,000))
	<u>12,652,000</u>

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

(1) \$3,908,000 of the water quality account appropriation and \$219,000 of the general fund—federal appropriation are provided solely for the Puget Sound water quality action team to implement the Puget Sound work plan and agency action items PSAT-01 through PSAT-05.

(2) \$100,000 of the general fund—state appropriation for fiscal year 2002 ((and \$100,000 of the general fund—state appropriation for fiscal year 2003 are)) is provided solely for the salmon recovery office to support the efforts of the independent science panel.

Sec. 115. 2001 2nd sp.s. c 7 s 116 (uncodified) is amended to read as follows:

FOR THE LIEUTENANT GOVERNOR

General Fund—State Appropriation (FY 2002) \$	449,000
General Fund—State Appropriation (FY 2003) \$	((451,000))
	<u>428,000</u>
TOTAL APPROPRIATION \$	((900,000))
	<u>877,000</u>

Sec. 116. 2001 2nd sp.s. c 7 s 117 (uncodified) is amended to read as follows:

FOR THE PUBLIC DISCLOSURE COMMISSION

General Fund—State Appropriation (FY 2002) \$	1,910,000
General Fund—State Appropriation (FY 2003) \$	((1,903,000))
	<u>1,846,000</u>
TOTAL APPROPRIATION \$	((3,813,000))
	<u>3,756,000</u>

Sec. 117. 2001 2nd sp.s. c 7 s 118 (uncodified) is amended to read as follows:

FOR THE SECRETARY OF STATE

General Fund—State Appropriation (FY 2002) \$	((10,513,000))
	<u>10,485,000</u>
General Fund—State Appropriation (FY 2003) \$	((8,707,000))
	<u>6,446,000</u>
Archives and Records Management Account—State Appropriation \$	((7,295,000))
	<u>7,877,000</u>
Archives and Records Management Account—Private/ Local Appropriation \$	((3,860,000))
	<u>4,572,000</u>
Department of Personnel Service Account Appropriation \$	((719,000))
	<u>701,000</u>
TOTAL APPROPRIATION \$	((31,094,000))
	<u>30,081,000</u>

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

(1) ((~~\$2,296,000~~)) \$2,126,000 of the general fund—state appropriation for fiscal year 2002 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. Counties shall be reimbursed only for those odd-year election costs that the secretary of state validates as eligible for reimbursement.

(2) ((~~\$2,193,000~~)) \$2,143,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$2,712,000~~)) \$2,578,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, and the publication and distribution of the voters and candidates pamphlet.

(3) \$125,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$125,000~~)) \$118,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for legal advertising of state measures under RCW 29.27.072.

(4)(a) \$1,944,004 of the general fund—state appropriation for fiscal year 2002 and \$1,986,772 of the general fund—state appropriation for fiscal year 2003 are provided solely for contracting with a nonprofit organization to produce gavel-to-gavel television coverage of state government deliberations and other events of statewide significance during the 2001-2003 biennium. An eligible nonprofit organization must be formed solely for the purpose of, and be experienced in, providing gavel-to-gavel television coverage of state government deliberations and other events of statewide significance and must have received a determination of tax-exempt status under section 501(c)(3) of the federal internal revenue code. The funding level for each year of the contract shall be based on the amount provided in this subsection and adjusted to reflect the implicit price deflator for the previous

year. The nonprofit organization shall be required to raise contributions or commitments to make contributions, in cash or in kind, in an amount equal to forty percent of the state contribution. The office of the secretary of state may make full or partial payment once all criteria in (a) and (b) of this subsection have been satisfactorily documented.

(b) The legislature finds that the commitment of on-going funding is necessary to ensure continuous, autonomous, and independent coverage of public affairs. For that purpose, the secretary of state shall enter into a four-year contract with the nonprofit organization to provide public affairs coverage through June 30, 2006.

(c) The nonprofit organization shall prepare an annual independent audit, an annual financial statement, and an annual report, including benchmarks that measure the success of the nonprofit organization in meeting the intent of the program.

(d) No portion of any amounts disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence the passage or defeat of any legislation by the legislature of the state of Washington, by any county, city, town, or other political subdivision of the state of Washington, or by the congress, or the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

(ii) Making contributions reportable under chapter 42.17 RCW; or

(iii) Providing any: (A) Gift; (B) honoraria; or (C) travel, lodging, meals, or entertainment to a public officer or employee.

(5)(a) \$149,316 of the archives and records management—state appropriation and \$597,266 of the archives and records management—private/local appropriation are provided solely for the construction of an eastern regional archives. The amounts provided in this subsection shall lapse if:

(i) The financing contract for the construction of an eastern regional archives building is not authorized in the capital budget for the 2001-03 fiscal biennium; or

(ii) Substitute House Bill No. 1926 (increasing the surcharge on county auditor recording fees) is not enacted by July 31, 2001.

(b) (~~(\$613,879)~~) \$566,879 of the archives and records management—state appropriation and (~~(\$463,102)~~) \$451,102 of the archives and records management—private/local appropriation are provided solely for the design and establishment of an electronic data archive, including the acquisition of hardware and software. The amounts provided in this subsection shall lapse if:

(i) The financing contract for acquisition of technology hardware and software for the electronic data archive is not authorized in the capital budget for the 2001-03 fiscal biennium; or

(ii) Substitute House Bill No. 1926 (increasing the surcharge on county auditor recording fees) is not enacted by June 30, 2001.

(6) If the financing contract for expansion of the state records center is not authorized in the capital budget for fiscal biennium 2001-03, then \$641,000 of the archives and records management account—state appropriation shall lapse.

(7) (~~(\$867,000)~~) \$1,635,000 of the archives and records management account—state appropriation is provided solely for operation of the central microfilming bureau under RCW 40.14.020(8).

Sec. 118. 2001 2nd sp.s. c 7 s 119 (uncodified) is amended to read as follows:

FOR THE GOVERNOR’S OFFICE OF INDIAN AFFAIRS

General Fund—State Appropriation (FY 2002) \$	269,000
General Fund—State Appropriation (FY 2003) \$	((282,000))
	<u>274,000</u>
TOTAL APPROPRIATION \$	((551,000))
	<u>543,000</u>

Sec. 119. 2001 2nd sp.s. c 7 s 120 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2002) \$	233,000
General Fund—State Appropriation (FY 2003) \$	((233,000))
	<u>201,000</u>
TOTAL APPROPRIATION \$	((466,000))
	<u>434,000</u>

Sec. 120. 2001 2nd sp.s. c 7 s 123 (uncodified) is amended to read as follows:

FOR THE STATE AUDITOR

General Fund—State Appropriation (FY 2002) \$	((1,078,000))
	<u>901,000</u>
General Fund—State Appropriation (FY 2003) \$	((1,324,000))
	<u>1,051,000</u>
State Auditing Services Revolving Account—State Appropriation \$	((13,540,000))
	<u>13,193,000</u>
TOTAL APPROPRIATION \$	((15,942,000))
	<u>15,145,000</u>

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

(1) Audits of school districts by the division of municipal corporations shall include findings regarding the accuracy of: (a) Student enrollment data; and (b) the experience and education of the district’s certified instructional staff, as reported to the superintendent of public instruction for allocation of state funding.

(2) (~~(\$910,000)~~) \$901,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$910,000)~~) \$901,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for staff and related costs to verify the accuracy of reported school district data submitted for state funding purposes; conduct school district program audits of state funded public school programs;

establish the specific amount of state funding adjustments whenever audit exceptions occur and the amount is not firmly established in the course of regular public school audits; and to assist the state special education safety net committee when requested.

(3) \$150,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the state auditor to contract for an objective and systematic performance audit of state claims benefits administration.

(a) The independent contractor shall use generally accepted government auditing standards. The performance audit shall include, but not be limited to, the following:

(i) Validity and reliability of management’s performance measures;

(ii) A review of internal controls and internal audits;

(iii) The adequacy of systems used for measuring, reporting, and monitoring performance;

(iv) The extent to which legislative, regulatory, and organizational goals and objectives are being achieved; and

(v) Identification and recognition of best practices.

(b) The performance audit on state claims benefits shall include direct grants to clients, direct payments to providers, and workers’ compensation payments. The following state agencies, at a minimum, shall be subject to audit sampling: Department of community, trade, and economic development, the employment security department, the department of labor and industries, the department of social and health services, and the Washington state health care authority. The performance audit shall indicate and grade agencies’ performances in administering state claims benefits. The state auditor shall report the findings of the performance audit to the appropriate legislative committees by November 30, 2002.

Sec. 121. 2001 2nd sp.s. c 7 s 124 (uncodified) is amended to read as follows:
FOR THE CITIZENS’ COMMISSION ON SALARIES FOR ELECTED OFFICIALS

General Fund—State Appropriation (FY 2002) \$	80,000
General Fund—State Appropriation (FY 2003) \$	((+152,000))
	<u>147,000</u>
TOTAL APPROPRIATION \$	((232,000))
	<u>227,000</u>

Sec. 122. 2001 2nd sp.s. c 7 s 125 (uncodified) is amended to read as follows:
FOR THE ATTORNEY GENERAL

General Fund—State Appropriation (FY 2002) \$	4,811,000
General Fund—State Appropriation (FY 2003) \$	((4,806,000))
	<u>4,070,000</u>
General Fund—Federal Appropriation \$	2,868,000
Public Safety and Education Account—State Appropriation \$	((1,789,000))
	<u>1,753,000</u>

Tobacco Prevention and Control Account	
Appropriation	\$ 277,000
New Motor Vehicle Arbitration Account—State	
Appropriation	\$ 1,163,000
Legal Services Revolving Account—State	
Appropriation	\$ ((147,306,000))
	<u>147,422,000</u>
TOTAL APPROPRIATION	\$ ((163,020,000))
	<u>162,364,000</u>

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

(1) The attorney general shall report each fiscal year on actual legal services expenditures and actual attorney staffing levels for each agency receiving legal services. The report shall be submitted to the office of financial management and the fiscal committees of the senate and house of representatives no later than ninety days after the end of each fiscal year.

(2) The attorney general and the office of financial management shall modify the attorney general billing system to meet the needs of user agencies for greater predictability, timeliness, and explanation of how legal services are being used by the agency. The attorney general shall provide the following information each month to agencies receiving legal services: (a) The full-time equivalent attorney services provided for the month; (b) the full-time equivalent investigator services provided for the month; (c) the full-time equivalent paralegal services provided for the month; and (d) direct legal costs, such as filing and docket fees, charged to the agency for the month.

(3) Prior to entering into any negotiated settlement of a claim against the state, that exceeds five million dollars, the attorney general shall notify the director of financial management and the chairs of the senate committee on ways and means and the house of representatives committee on appropriations.

(4)(a) \$87,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the office of the attorney general to prepare a report by October 1, 2002, on federal and Indian reserved water rights, and to submit the report to the standing committees of the legislature having jurisdiction over water resources. The objectives of the report shall be to:

- (i) Examine and characterize the types of water rights issues involved;
- (ii) Examine the approaches of other states to such issues and their results;
- (iii) Examine methods for addressing such issues including, but not limited to, administrative, judicial, or other methods, or any combinations thereof; and
- (iv) Examine implementation and funding requirements.

(b) Following receipt of the report, the standing committees of the legislature having jurisdiction over water resources shall seek and consider the recommendations of the relevant departments and agencies of the United States,

the federally recognized Indian tribes with water-related interests in the state, and water users in the state and shall develop recommendations.

Sec. 123. 2001 2nd sp.s. c 7 s 126 (uncodified) is amended to read as follows:

FOR THE CASELOAD FORECAST COUNCIL

General Fund—State Appropriation (FY 2002)	\$	631,000
General Fund—State Appropriation (FY 2003)	\$	((619,000))
		<u>600,000</u>
TOTAL APPROPRIATION	\$	((1,250,000))
		<u>1,231,000</u>

NEW SECTION. Sec. 124. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS. The department of financial institutions shall reduce its fiscal year 2003 expenditures from the financial services regulation account by the amount of \$357,000.

***Sec. 125.** 2001 2nd sp.s. c 7 s 127 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

General Fund—State Appropriation (FY 2002)	\$	((71,083,500))
		<u>70,893,000</u>
General Fund—State Appropriation (FY 2003)	\$	((70,873,500))
		<u>60,499,000</u>
General Fund—Federal Appropriation	\$	173,342,000
General Fund—Private/Local Appropriation	\$	7,980,000
Public Safety and Education Account—State Appropriation	\$	((10,300,000))
		<u>10,094,000</u>
Public Works Assistance Account—State Appropriation	\$	1,911,000
<u>Salmon Recovery Account—State Appropriation . .</u>	<u>\$</u>	<u>1,500,000</u>
Film and Video Promotion Account—State Appropriation	\$	25,000
Building Code Council Account—State Appropriation	\$	((1,061,000))
		<u>1,226,000</u>
Administrative Contingency Account—State Appropriation	\$	1,777,000
Low-Income Weatherization Assistance Account—State Appropriation	\$	3,292,000
Violence Reduction and Drug Enforcement Account— State Appropriation	\$	((6,081,000))
		<u>7,513,000</u>

Manufactured Home Installation Training Account—		
State Appropriation	\$	256,000
Community Economic Development Account—		
State Appropriation	\$	113,000
Washington Housing Trust Account—State		
Appropriation	\$	((5,597,000))
		<u>10,368,000</u>
Public Facility Construction Loan Revolving		
Account—State Appropriation	\$	((550,000))
		<u>586,000</u>
TOTAL APPROPRIATION	\$	((354,242,000))
		<u>351,375,000</u>

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

(1) It is the intent of the legislature that the department of community, trade, and economic development receive separate programmatic allotments for the office of community development and the office of trade and economic development. Any appropriation made to the department of community, trade, and economic development for carrying out the powers, functions, and duties of either office shall be credited to the appropriate office.

(2) \$3,085,000 of the general fund—state appropriation for fiscal year 2002 and ~~((3,085,000))~~ \$2,838,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for a contract with the Washington technology center. For work essential to the mission of the Washington technology center and conducted in partnership with universities, the center shall not pay any increased indirect rate nor increases in other indirect charges above the absolute amount paid during the 1995-97 fiscal biennium.

(3) \$61,000 of the general fund—state appropriation for fiscal year 2002 and \$62,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of the Puget Sound work plan and agency action item OCD-01.

(4) ~~((10,403,445))~~ \$10,804,156 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 2002 as follows:

(a) \$3,603,250 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$620,000 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,363,000 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$200,000 to the department for grants to support tribal law enforcement needs;

(e) \$991,000 to the department of social and health services, division of alcohol and substance abuse, for drug courts in eastern and western Washington;

(f) \$302,551 to the department for training and technical assistance of public defenders representing clients with special needs;

(g) \$88,000 to the department to continue a substance abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(h) \$697,075 to the department to continue domestic violence legal advocacy;

(i) \$903,000 to the department of social and health services, juvenile rehabilitation administration, to continue youth violence prevention and intervention projects;

(j) \$60,000 to the Washington association of sheriffs and police chiefs to complete the state and local components of the national incident-based reporting system;

(k) \$60,000 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence;

(l) \$91,000 to the department to continue the governor's council on substance abuse;

(m) \$99,000 to the department to continue evaluation of Byrne formula grant programs;

(n) (~~(\$500,469)~~) \$901,180 to the office of financial management for criminal history records improvement; and

(o) \$825,100 to the department for required grant administration, monitoring, and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(5) (~~(\$470,000)~~) \$320,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$470,000)~~) \$320,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the rural economic (~~development activities including \$200,000 for the Washington manufacturing service, and \$100,000 for business retention and expansion~~) opportunity fund.

(6) \$1,250,000 of the general fund—state appropriation for fiscal year 2002 and \$1,250,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for grants to operate, repair, and staff shelters for homeless families with children.

(7) \$2,500,000 of the general fund—state appropriation for fiscal year 2002 and \$2,500,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for grants to operate transitional housing for homeless families with children. The grants may also be used to make partial payments for rental assistance.

(8) \$1,250,000 of the general fund—state appropriation for fiscal year 2002 and \$1,250,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for consolidated emergency assistance to homeless families with children.

(9) \$205,000 of the general fund—state appropriation for fiscal year 2002 and \$205,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for grants to Washington Columbia river gorge counties to implement their responsibilities under the national scenic area management plan. Of this amount, \$390,000 is provided for Skamania county and \$20,000 is provided for Clark county.

(10) \$698,000 of the general fund—state appropriation for fiscal year 2002, \$698,000 of the general fund—state appropriation for fiscal year 2003, and \$1,101,000 of the administrative contingency account appropriation are provided solely for contracting with associate development organizations to maintain existing programs.

(11) \$600,000 of the public safety and education account appropriation is provided solely for sexual assault prevention and treatment programs.

(12) \$680,000 of the Washington housing trust account appropriation is provided solely to conduct a pilot project designed to lower infrastructure costs for residential development.

(13) \$50,000 of the general fund—state appropriation for fiscal year 2002 and \$50,000 of the general fund—state appropriation for fiscal year 2003 are provided to the department solely for providing technical assistance to developers of housing for farmworkers.

(14) \$370,000 of the general fund—state appropriation for fiscal year 2002, \$371,000 of the general fund—state appropriation for fiscal year 2003, and \$25,000 of the film and video promotion account appropriation are provided solely for the film office to bring film and video production to Washington state.

(15) \$22,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$23,000 of the general fund—state appropriation for fiscal year 2003 are))~~ is provided solely as a matching grant to support the Washington state senior games. State funding shall be matched with at least an equal amount of private or local governmental funds.

(16) \$500,000 of the general fund—state appropriation for fiscal year 2002 and \$500,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for grants to food banks and food distribution centers to increase their ability to accept, store, and deliver perishable food.

(17) \$230,000 of the general fund—state appropriation for fiscal year 2002, \$230,000 of the general fund—state appropriation for fiscal year 2003, and the entire community economic development account appropriation are provided solely for support of the developmental disabilities endowment governing board and startup costs of the endowment program. Startup costs are a loan from the state general fund and will be repaid from funds within the program as determined by the governing board. The governing board may use state appropriations to implement a sliding-scale fee waiver for families earning below 150 percent of the state median family income. The director of the department, or the director of the subsequent department of community development, may implement fees to support the program as provided under RCW 43.330.152.

(18) \$880,000 of the public safety and education account appropriation is provided solely for community-based legal advocates to assist sexual assault victims with both civil and criminal justice issues. If Senate Bill No. 5309 is not enacted by June 30, 2001, the amount provided in this subsection shall lapse.

(19) \$65,000 of the general fund—state appropriation for fiscal year 2002 and \$65,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for a contract with a food distribution program for communities in the southwestern portion of the state and for workers impacted by timber and salmon fishing closures and reductions. The department may not charge administrative overhead or expenses to the funds provided in this subsection.

(20) \$120,000 of the general fund—state appropriation for fiscal year 2002 and \$120,000 of the (~~general fund—state~~) Washington housing trust account appropriation for fiscal year 2003 are provided solely as one-time pass-through funding to currently licensed overnight youth shelters. If Substitute House Bill No. 2060 (low-income housing) is not enacted by June 30, 2002, the fiscal year 2003 appropriation shall be made from the state general fund.

(21) \$1,868,000 of the Washington housing trust account appropriation for fiscal year 2003 is provided solely for emergency shelter assistance. If Substitute House Bill No. 2060 (low-income housing) is not enacted by June 30, 2002, the fiscal year 2003 appropriation shall be made from the state general fund.

(22) Repayments of outstanding loans granted under RCW 43.63A.600, the mortgage and rental assistance program, shall be remitted to the department, including any current revolving account balances. The department shall contract with a lender or contract collection agent to act as a collection agent of the state. The lender or contract collection agent shall collect payments on outstanding loans, and deposit them into an interest-bearing account. The funds collected shall be remitted to the department quarterly. Interest earned in the account may be retained by the lender or contract collection agent, and shall be considered a fee for processing payments on behalf of the state. Repayments of loans granted under this chapter shall be made to the lender or contract collection agent as long as the loan is outstanding, notwithstanding the repeal of the chapter.

~~((22))~~ (23) \$75,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$75,000 of the general fund—state appropriation for fiscal year 2003 are))~~ is provided solely for the community connections program in Walla Walla.

~~((23))~~ (24) \$100,000 of the general fund—state appropriation for fiscal year 2002 and \$100,000 of the general fund—state appropriation for fiscal year 2003 are provided to the office of community development solely for the purposes of providing assistance to industrial workers who have been displaced by energy cost-related industrial plant closures in rural counties. For purposes of this subsection, "rural county" is as defined in RCW 82.14.370(5). The office of community development shall distribute the amount in this subsection to community agencies that assist the displaced industrial workers in meeting basic needs including, but not limited to, emergency medical and dental services, family and mental health counseling, food, energy costs, mortgage, and rental costs. The department shall not retain more than two percent of the amount provided in this subsection for administrative costs.

~~((24))~~ (25) \$91,500 of the general fund—state appropriation for fiscal year 2002 and \$91,500 of the general fund—state appropriation for fiscal year 2003 are provided solely for services related to the foreign representative contract for Japan.

~~((25))~~ (26) \$81,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$81,000 of the general fund—state appropriation for fiscal year 2003 are))~~ is provided solely for business finance and loan programs.

~~((26))~~ (27) \$150,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the quick sites initiative program.

~~((27))~~ (28) \$120,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$120,000 of the general fund—state appropriation for fiscal year 2003 are))~~ is provided solely for operating a business information hotline.

~~((28))~~ (29) \$29,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$81,000 of the general fund—state appropriation for fiscal year 2003 are))~~ is provided solely for travel expenses associated with the office of trade and economic development's provision of outreach and technical assistance services to businesses and local economic development associations.

~~((29))~~ (30) \$100,000 of the general fund—state appropriation for fiscal year 2002 and \$100,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for information technology enhancements designed to improve the delivery of agency services to customers.

(31) \$300,000 of the general fund—state appropriation for fiscal year 2003 is provided to reimburse nonprofit associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public for back leasehold excise taxes assessed by the department of revenue.

(32) \$10,111,682 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in state fiscal year 2003 as follows:

(a) \$3,551,972 to local units of government to continue multijurisdictional narcotics task forces;

(b) \$611,177 to the department to continue the drug prosecution assistance program in support of multijurisdictional narcotics task forces;

(c) \$1,343,603 to the Washington state patrol for coordination, investigative, and supervisory support to the multijurisdictional narcotics task forces and for methamphetamine education and response;

(d) \$197,154 to the department for grants to support tribal law enforcement needs;

(e) \$976,897 to the department of social and health services, division of alcohol and substance abuse, for drug courts in eastern and western Washington;

(f) \$298,246 to the department for training and technical assistance of public defenders representing clients with special needs;

(g) \$687,155 to the department to continue domestic violence legal advocacy;

(h) \$890,150 to the department of social and health services, juvenile rehabilitation administration, to continue youth violence prevention and intervention projects;

(i) \$89,705 to the department to continue the governor's council on substance abuse;

(j) \$97,591 to the department to continue evaluation of Byrne formula grant programs;

(k) \$494,675 to the office of financial management for criminal history records improvement;

(l) \$60,000 to the department for community-based advocacy services to victims of violent crime, other than sexual assault and domestic violence; and

(m) \$813,358 to the department for required grant administration, monitoring, and reporting on Byrne formula grant programs.

These amounts represent the maximum Byrne grant expenditure authority for each program. No program may expend Byrne grant funds in excess of the amounts provided in this subsection. If moneys in excess of those appropriated in this subsection become available, whether from prior or current fiscal year Byrne grant distributions, the department shall hold these moneys in reserve and may not expend them without specific appropriation. These moneys shall be carried forward and applied to the pool of moneys available for appropriation for programs and projects in the succeeding fiscal year. As part of its budget request for the succeeding year, the department shall estimate and request authority to spend any funds remaining in reserve as a result of this subsection.

(33) \$165,000 of the building code council account appropriation for fiscal year 2003 is provided solely for the state building code council pursuant to Senate Bill No. 5352 (building code council fee increase). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(34) \$202,000 of the mobile home park relocation account appropriation for fiscal year 2003 is provided solely for the department to administer the mobile

home relocation assistance program as provided by Second Substitute Senate Bill No. 5354 (mobile home relocation assistance fee). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(35) The appropriations in this section reflect a reduction of \$504,000 from the general fund—state appropriation for fiscal year 2003. To implement this reduction, the office of trade and economic development shall take actions consistent with its mission, goals, and objectives to reduce operating costs. Such action, to the greatest extent possible, shall maintain direct payments to service providers, grants to other entities, and other pass-through funds. Examples of actions that may be taken to effect this reduction include hiring freezes, employee furloughs, staffing reductions, restricted travel and training, delaying purchases of equipment, and limiting personal service contracts.

(36) \$40,000 of the general fund—state appropriation for fiscal year 2003 is provided solely to implement the state task force on funding for community-based services to victims of crime as provided in Senate Bill No. 6763. If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(37) The appropriations in this section reflect a reduction of \$1,641,000 from the general fund—state appropriation for fiscal year 2003. To implement this reduction, the office of community development shall take actions consistent with its mission, goals, and objectives to reduce operating costs. Such action, to the greatest extent possible, shall maintain direct payments to service providers, grants to other entities, and other pass-through funds. Examples of actions that may be taken to effect this reduction include hiring freezes, employee furloughs, staffing reductions, restricted travel and training, delaying purchases of equipment, and limiting personal service contracts.

*Sec. 125 was partially vetoed. See message at end of chapter.

Sec. 126. 2001 2nd sp.s. c 7 s 128 (uncodified) is amended to read as follows:

FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL

General Fund—State Appropriation (FY 2002) \$	512,000
General Fund—State Appropriation (FY 2003) \$	((514,000))
	<u>499,000</u>
TOTAL APPROPRIATION \$	((1,026,000))
	<u>1,011,000</u>

Sec. 127. 2001 2nd sp.s. c 7 s 129 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT

General Fund—State Appropriation (FY 2002) \$	12,456,000
General Fund—State Appropriation (FY 2003) \$	((12,024,000))
	<u>12,508,000</u>
General Fund—Federal Appropriation \$	23,657,000
Violence Reduction and Drug Enforcement	
Account—State Appropriation \$	((229,000))
	<u>226,000</u>

State Auditing Services Revolving

Account—State Appropriation	\$	25,000
TOTAL APPROPRIATION	\$	((48,391,000))
		<u>48,872,000</u>

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

(1) The office of financial management shall review policies and procedures regarding purchasing of information technology upgrades by state agencies. Information technology upgrades include replacement workstations, network equipment, operating systems and application software. The review shall document existing policies and procedures, and shall compare alternative upgrade policies that reduce the overall cost to state government for maintaining adequate information technology to meet the existing business needs of state agencies. Findings and recommendations from this review shall be reported to appropriate committees of the legislature by December 1, 2001.

(2) State agencies that provide services to other state agencies are expected to reduce their expenditures and to share the savings with their clients. The office of financial management shall achieve a reduction of \$339,000 in its billings for financial system services purchased by state agencies in fiscal year 2003. The reduction is expected to result from both reduced demand for services and reduced rates.

(3) \$500,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for implementation of Engrossed Second Substitute House Bill No. 2671 (permit assistance center). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(4) \$350,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for an assessment and performance scoring of state agencies and separate systemwide performance audits of two governmental functions: State capital construction practices and state contracting practices.

(a) The scorecard on state agencies shall include, but not be limited to, the following:

- (i) Quality and process management practices;
- (ii) Independent and internal audit functions;
- (iii) Internal and external customer satisfaction;
- (iv) Program effectiveness;
- (v) Fiscal productivity and efficiency; and
- (vi) Statutory and regulatory compliance.

Each agency shall be graded on the categories selected for the scorecard. The office of financial management shall submit the results of the performance scoring, forward recommendations for legislation to the governor and the appropriate committees of the legislature by November 30, 2002, and release the results of the performance scoring to the public.

(b)(i) The office of financial management shall conduct separate systemwide performance audits on the state's capital construction and contracting practices

using generally accepted government auditing standards. Each performance audit shall include, but not be limited to, a review of the following:

(A) Validity and reliability of management’s performance measures;

(B) A review of internal controls and internal audits;

(C) The adequacy of systems used for measuring, reporting, and monitoring performance;

(D) The extent to which legislative, regulatory, and organizational goals and objectives are being achieved; and

(E) Identification and recognition of best practices.

(ii) The performance audit on state capital construction practices shall include building projects, highway projects, and architectural and engineering services. The following state agencies, at a minimum, shall be subject to audit sampling: Department of transportation, department of general administration, and state higher education agencies.

(iii) The performance audit on state contracting practices shall include state agencies with sufficient activity with personal services contracts and other types of contracts to evaluate the state’s contracting practices.

(iv) The office of financial management shall grade the results of the performance audits to indicate agencies’ performance regarding capital construction and contracting practices. The office of financial management shall report findings from the performance audits to the governor and appropriate legislative committees by November 30, 2002.

(c) The office of financial management may contract for consulting services in completing requirements under this subsection.

Sec. 128. 2001 2nd sp.s. c 7 s 130 (uncodified) is amended to read as follows:

FOR THE OFFICE OF ADMINISTRATIVE HEARINGS

Administrative Hearings Revolving Account—State

Appropriation	\$	((21,938,000))
		<u>22,394,000</u>

Sec. 129. 2001 2nd sp.s. c 7 s 131 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF PERSONNEL

Department of Personnel Service Account—State

Appropriation	\$	((17,297,000))
		<u>17,035,000</u>

Higher Education Personnel Services Account—State

Appropriation	\$	1,636,000
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TOTAL APPROPRIATION	\$	((18,933,000))
		<u>18,671,000</u>

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

(1) The department of personnel may charge agencies through the data processing revolving account up to \$561,000 in fiscal year 2002 to study the

development of a new personnel and payroll system. The unexpended amount of \$545,000 shall be refunded to agencies in the form of reduced agency billings in fiscal year 2003.

(2) Funding to cover ~~((these))~~ expenses under subsection (1) of this section shall be realized from agency FICA savings associated with the pretax benefits contributions plans. Funding is subject to section 902 of this act.

Sec. 130. 2001 2nd sp.s. c 7 s 132 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE LOTTERY

Lottery Administrative Account—State

Appropriation	\$	((22,130,000))
		<u>21,795,000</u>

NEW SECTION. Sec. 131. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

STATE GAMBLING COMMISSION. The state gambling commission is directed to reduce its fiscal year 2003 expenditures from the gambling revolving account by the amount of \$450,000.

Sec. 132. 2001 2nd sp.s. c 7 s 133 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON HISPANIC AFFAIRS

General Fund—State Appropriation (FY 2002)	\$	226,000
General Fund—State Appropriation (FY 2003)	\$	((234,000))
		<u>210,000</u>
TOTAL APPROPRIATION	\$	((460,000))
		<u>436,000</u>

Sec. 133. 2001 2nd sp.s. c 7 s 134 (uncodified) is amended to read as follows:

FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS

General Fund—State Appropriation (FY 2002)	\$	211,000
General Fund—State Appropriation (FY 2003)	\$	((209,000))
		<u>207,000</u>
TOTAL APPROPRIATION	\$	((460,000))
		<u>418,000</u>

Sec. 134. 2001 2nd sp.s. c 7 s 135 (uncodified) is amended to read as follows:

FOR THE PERSONNEL APPEALS BOARD

Department of Personnel Service Account—State

Appropriation	\$	((1,679,000))
		<u>1,705,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$26,000 of the department of personnel services account appropriation is provided solely for paying accrued annual and sick leave to a retired board member.

Sec. 135. 2001 2nd sp.s. c 7 s 136 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS

Dependent Care Administrative Account—State	
Appropriation	\$ 378,000
Department of Retirement Systems Expense Account—	
State Appropriation	\$ ((49,562,000))
	<u>49,183,000</u>
TOTAL APPROPRIATION	\$ ((49,940,000))
	<u>49,561,000</u>

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

(1) \$1,000,000 of the department of retirement systems expense account appropriation is provided solely for support of the information systems project known as the electronic document image management system.

(2) \$120,000 of the department of retirement systems expense account appropriation is provided solely for locating inactive members entitled to retirement benefits.

(3) \$117,000 of the department of retirement systems expense account appropriation is provided solely for modifications to the retirement information systems to accommodate tracking of postretirement employment on an hourly basis.

(4) \$440,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Engrossed Senate Bill No. 5143 (Washington state patrol retirement systems plan 2).

(5) \$6,420,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of public employees' retirement system plan 3 (chapter 247, Laws of 2000).

~~(6) ((\$101,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Senate Bill No. 5144 (LEOFF survivor benefit). If the bill is not enacted by July 31, 2001, the amount provided in this subsection shall lapse.~~

~~(7) \$744,000 of the department of retirement systems expense account—state appropriation is provided solely to implement Second Engrossed Substitute Senate Bill No. 6166 (LEOFF restructuring). If the bill is not enacted by July 31, 2001, the amount provided in this subsection shall lapse.))~~ \$96,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Senate Bill No. 6376 (PERS plan 3 transfer payment). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(7) \$9,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Senate Bill No. 6377 (TRS plan I extended school year). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(8) \$12,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Senate Bill No. 6378

(LEOFF plan 2 part-time leave of absence). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(9) \$122,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Senate Bill No. 6379 (transferring service credit to WSPRS). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(10) \$651,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Engrossed Senate Bill No. 6380 (survivor benefits). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(11) \$53,000 of the department of retirement systems expense account appropriation is provided solely for the implementation of Senate Bill No. 6381 (PERS plan 1 terminated vested). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(12) \$130,000 of the department of retirement systems expense account appropriation for fiscal year 2003 is provided solely for the implementation of House Bill No. 2896 (EMT service credit transfer). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(13) The appropriations in this section are reduced to reflect savings resulting from a 0.01 percent reduction of the department of retirement systems administrative expense rate, effective May 1, 2002, from 0.23 to 0.22 for the remainder of the 2001-03 biennium.

Sec. 136. 2001 2nd sp.s. c 7 s 137 (uncodified) is amended to read as follows:

FOR THE STATE INVESTMENT BOARD

State Investment Board Expense Account—State

Appropriation	\$	((12,876,000))
		<u>13,461,000</u>

***Sec. 137.** 2001 2nd sp.s. c 7 s 138 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF REVENUE

General Fund—State Appropriation (FY 2002)	\$	((72,820,000))
		<u>72,823,000</u>
General Fund—State Appropriation (FY 2003)	\$	((72,387,000))
		<u>78,149,000</u>
Timber Tax Distribution Account—State		
Appropriation	\$	5,131,000
Waste Education/Recycling/Litter Control—State		
Appropriation	\$	101,000
State Toxics Control Account—State		
Appropriation	\$	67,000
Oil Spill Administration Account—State		
Appropriation	\$	14,000
<u>Multimodal Transportation Account—State</u>		

<u>Appropriation</u>	\$	<u>109,000</u>
TOTAL APPROPRIATION	\$	<u>((150,520,000))</u>
		<u>156,394,000</u>

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

(1) \$269,000 of the general fund—state appropriation for fiscal year 2002 and \$49,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to establish and provide staff support to a committee on taxation to study the elasticity, equity, and adequacy of the state’s tax system.

((+)) (a) The committee shall consist of eleven members. The department shall appoint six academic scholars from the fields of economics, taxation, business administration, public administration, public policy, and other relevant disciplines as determined by the department, after consulting with the majority and minority leaders in the senate, the co-speakers in the house of representatives, the chair of the ways and means committee in the senate, and the co-chairs of the finance committee in the house of representatives. The governor and the chairs of the majority and minority caucuses in each house of the legislature shall each appoint one member to the committee. These appointments may be legislative members. The members of the committee shall either elect a voting chair from among their membership or a nonvoting chair who is not a member of the committee. Members of the committee shall serve without compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

((2)) (b) The purpose of the study is to determine how well the current tax system functions and how it might be changed to better serve the citizens of the state in the twenty-first century. In reviewing options for changes to the tax system, the committee shall develop multiple alternatives to the existing tax system. To the extent possible, the alternatives shall be designed to increase the harmony between the tax system of this state and the surrounding states, encourage commerce and business creation, and encourage home ownership. In developing alternatives, the committee shall examine and consider the effects of tax incentives, including exemptions, deferrals, and credits. The alternatives shall range from incremental improvements in the current tax structure to complete replacement of the tax structure. In conducting the study, the committee shall examine the tax structures of other states and review previous studies regarding tax reform in this state. In developing alternatives, the committee shall be guided by administrative simplicity, economic neutrality, fairness, stability, and transparency. Most of the alternatives presented by the committee to the legislature shall be revenue neutral and contain no income tax.

((3)) (c) The department shall create an advisory group to include, but not be limited to, representatives of business, state agencies, local governments, labor, taxpayers, and other advocacy groups. The group shall provide advice and assistance to the committee.

~~((4))~~ (d) The committee shall present a final report of its findings and alternatives to the ways and means committee in the senate and the finance committee in the house of representatives by November 30, 2002.

(2) \$90,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the department to conduct a study of tax incentives.

(a) The tax incentives covered by the study shall include the following:

(i) The rural county distressed areas sales tax deferral and exemption under chapter 82.60 RCW;

(ii) The rural county business and occupation tax credit for computer software development in RCW 82.04.4456;

(iii) The business and occupation tax jobs credit under chapter 82.62 RCW;

(iv) The business and occupation tax credit for international services under RCW 82.04.44525;

(v) The business and occupation tax credit for help-desk services in rural counties under RCW 82.04.4457;

(vi) The high technology business and occupation tax credit under RCW 82.04.4452;

(vii) The high technology sales tax deferral/exemption in chapter 82.63 RCW; and

(viii) The manufacturing, research and development, and testing operations sales and use tax exemptions under RCW 82.08.02565 and 82.12.02565.

(b) Taxpayer participation in the study is voluntary. Taxpayer information used in the study is confidential under the provisions of chapter 82.32 RCW. Additionally, the identity of any study participants may not be disclosed.

(c) The purpose of the study is to allow the legislature to evaluate the success of tax incentives in terms of job creation, product development, and other factors that are considered a return on investment of public funds. The study shall include information such as the amount of the incentive taken, the annual number of net new jobs as a result of the incentive, current employment, number of new products developed, the types and amounts of other taxes paid, whether the business expanded or is located in a certain area as a result of the incentive and other information determined by the department to be relevant to the study.

(d) The department shall report to the appropriate legislative committees of the senate and house of representatives by November 30, 2002.

(3) \$109,000 of the multimodal transportation account—state appropriation for fiscal year 2003 is provided solely for the department to implement the provisions of House Bill No. 2969 (transportation). If the bill is not enacted by January 1, 2003, the amount provided in this subsection shall lapse. Further, the amount provided in this subsection shall lapse to the extent that funds are provided for this purpose in the transportation appropriations act.

(4) \$3,000 of the general fund—state appropriation for fiscal year 2002 and \$111,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the department to implement the provisions of House Bill No.

2658 (municipal business and occupation tax). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

*Sec. 137 was partially vetoed. See message at end of chapter.

Sec. 138. 2001 2nd sp.s. c 7 s 139 (uncodified) is amended to read as follows:

FOR THE BOARD OF TAX APPEALS

General Fund—State Appropriation (FY 2002)	\$	1,193,000
General Fund—State Appropriation (FY 2003)	\$	((1,038,000))
		<u>1,007,000</u>
TOTAL APPROPRIATION	\$	((2,231,000))
		<u>2,200,000</u>

Sec. 139. 2001 2nd sp.s. c 7 s 142 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF GENERAL ADMINISTRATION

General Fund—State Appropriation (FY 2002)	\$	549,000
General Fund—State Appropriation (FY 2003)	\$	((630,000))
		<u>655,000</u>
General Fund—Federal Appropriation	\$	1,930,000
General Fund—Private/Local Appropriation	\$	((444,000))
		<u>223,000</u>
State Capitol Vehicle Parking Account—		
State Appropriation	\$	154,000
General Administration Services Account—State		
Appropriation	\$	((41,419,000))
		<u>39,546,000</u>
TOTAL APPROPRIATION	\$	((45,126,000))
		<u>43,057,000</u>

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

(1) The department shall conduct a review of the ultimate purchasing system to evaluate the following: (a) The degree to which program objectives and assumptions were achieved; (b) the degree to which planned schedule of phases, tasks, and activities were accomplished; (c) an assessment of estimated and actual costs of each phase; (d) an assessment of project cost recovery/cost avoidance, return on investment, and measurable outcomes as each relate to the agency's business functions and other agencies' business functions; and (e) the degree to which integration with the agency and state information technology infrastructure was achieved. The department will receive written input from participating pilot agencies that describes measurable organizational benefits and cost avoidance opportunities derived from use of the ultimate purchasing system. The performance review shall be submitted to the office of financial management and the appropriate legislative fiscal committees by July 1, 2002.

(2) \$60,000 of the general administration services account appropriation is provided solely for costs associated with the development of the information technology architecture to link the risk management information system and the

tort division's case management system, and the reconciliation of defense cost reimbursement information.

(3) \$44,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the department to implement the waste management and recycling provisions of Substitute House Bill No. 2308 (encouraging recycling and waste reduction). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(4) State agencies that provide services to other state agencies are expected to reduce their expenditures and to share the savings with their clients. The department of general administration shall achieve a reduction of \$1,302,000 in its billings for motor pool, consolidated mail, and other services that state agencies purchase in fiscal year 2003. The reduction is expected to result from both reduced demand for services and reduced rates.

Sec. 140. 2001 2nd sp.s. c 7 s 143 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF INFORMATION SERVICES

Data Processing Revolving Account—State

Appropriation	\$	((3,706,000))
		3,610,000

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

(1) Fifteen independent private, nonprofit colleges, located in Washington state, have requested connection to the K-20 educational telecommunications network. These K-20 connections shall be provided to the private schools on a full cost reimbursement basis, net of the value of services and information provided by the private institutions, based on criteria approved by the K-20 board.

(2) Some private K-12 schools have requested limited "pilot connections" to the K-20 network to test the technical and economic feasibility of one or more connection models. These K-20 connections shall be provided to the private K-12 schools on a full cost reimbursement basis, net of the value of services and information provided by the private K-12 schools based on criteria approved by the K-20 board.

(3) In the 2001-03 biennium, the department shall incorporate statewide elements for a common technology infrastructure into the state strategic information technology plan that state agencies shall then use in establishing individual agency business applications.

(4) The department shall implement the \$10,800,000 service rate reduction it proposed on August 14, 2000.

(5) State agencies that provide services to other state agencies are expected to reduce their expenditures and to share the savings with their clients. The department of information services shall achieve a reduction of \$1,995,000 in its billings for services purchased by state agencies in fiscal year 2003. The reduction is expected to result from both reduced demand for services and reduced rates.

Sec. 141. 2001 2nd sp.s. c 7 s 144 (uncodified) is amended to read as follows:

FOR THE INSURANCE COMMISSIONER

General Fund—Federal Appropriation	\$	622,000
Insurance Commissioners Regulatory Account—State Appropriation	\$	((29,053,000)) <u>29,928,000</u>
TOTAL APPROPRIATION	\$	((29,675,000)) <u>30,550,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$693,000 of the insurance commissioner’s regulatory account appropriation is provided solely for moving and renovation costs associated with the colocation of the agency’s Olympia-area facilities. Expenditures from this amount shall be subject to the approval of the department of general administration.

Sec. 142. 2001 2nd sp.s. c 7 s 147 (uncodified) is amended to read as follows:

FOR THE HORSE RACING COMMISSION

Horse Racing Commission Account—State Appropriation	\$	((4,504,000)) <u>4,436,000</u>
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Sec. 143. 2001 2nd sp.s. c 7 s 148 (uncodified) is amended to read as follows:

FOR THE LIQUOR CONTROL BOARD

General Fund—State Appropriation (FY 2002)	\$	1,483,000
General Fund—State Appropriation (FY 2003)	\$	((1,484,000)) <u>1,439,000</u>
<u>General Fund—Federal Appropriation (FY 2003) . .</u>	<u>\$</u>	<u>99,000</u>
Liquor Control Board Construction and Maintenance Account—State Appropriation	\$	((8,114,000)) <u>9,684,000</u>
Liquor Revolving Account—State Appropriation	\$	((142,148,000)) <u>125,927,000</u>
TOTAL APPROPRIATION	\$	((153,229,000)) <u>138,632,000</u>

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

(1) \$1,573,000 of the liquor revolving account appropriation is provided solely for the agency information technology upgrade. This amount provided in this subsection is conditioned upon satisfying the requirements of section 902 of this act.

(2) \$4,803,000 of the liquor revolving account appropriation is provided solely for the costs associated with the development and implementation of a merchandising business system. Expenditures of any funds for this system are conditioned upon the approval of the merchandising business system’s feasibility

study by the information services board. The amount provided in this subsection is also conditioned upon satisfying the requirements of section 902 of this act.

(3) \$84,000 of the liquor control board construction and maintenance account appropriation for fiscal year 2003 is provided solely for the liquor control board to employ additional staff during the holiday season to handle the expected increase in sales volume at the Seattle distribution center.

Sec. 144. 2001 2nd sp.s. c 7 s 149 (uncodified) is amended to read as follows:
FOR THE UTILITIES AND TRANSPORTATION COMMISSION
Public Service Revolving Account—State

Appropriation	\$	((27,108,000))
		<u>26,702,000</u>
Pipeline Safety Account—State		
Appropriation	\$	3,305,000
Pipeline Safety Account—Federal		
Appropriation	\$	822,000
TOTAL APPROPRIATION	\$	((31,235,000))
		<u>30,829,000</u>

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

(1) \$3,011,000 of the pipeline safety account—state appropriation and \$822,000 of the pipeline safety account—federal appropriation are provided solely for the implementation of Substitute Senate Bill No. 5182 (pipeline safety). If the bill is not enacted by June 30, 2001, the amount provided in this subsection shall lapse.

(2) \$294,000 of the pipeline safety account—state appropriation is provided solely for an interagency agreement with the joint legislative audit and review committee for a report on hazardous liquid and gas pipeline safety programs. The committee shall review staff use, inspection activity, fee methodology, and costs of the hazardous liquid and gas pipeline safety programs and report to the appropriate legislative committees by July 1, 2003. The report shall include a comparison of interstate and intrastate programs, including but not limited to the number and complexity of regular and specialized inspections, mapping requirements for each program, and allocation of administrative costs to each program. If Substitute Senate Bill No. 5182 (pipeline safety) is not enacted by June 30, 2001, the amount provided in this section shall lapse.

Sec. 145. 2001 2nd sp.s. c 7 s 151 (uncodified) is amended to read as follows:
FOR THE MILITARY DEPARTMENT

General Fund—State Appropriation (FY 2002)	\$	9,165,000
General Fund—State Appropriation (FY 2003)	\$	((8,979,000))
		<u>8,710,000</u>
General Fund—Federal Appropriation	\$	22,509,000
General Fund—Private/Local Appropriation	\$	234,000

Enhanced 911 Account—State Appropriation	\$	((16,544,000))
		<u>20,269,000</u>
Disaster Response Account—State Appropriation . . .	\$	((582,000))
		<u>2,010,000</u>
Disaster Response Account—Federal Appropriation \$		((3,392,000))
		<u>6,510,000</u>
Worker and Community Right to Know Fund—State Appropriation	\$	283,000
Nisqually Earthquake Account—State Appropriation	\$	((37,884,000))
		<u>29,027,000</u>
Nisqually Earthquake Account—Federal Appropriation	\$	((157,795,000))
		<u>49,641,000</u>
TOTAL APPROPRIATION	\$	((257,367,000))
		<u>148,358,000</u>

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

(1) ~~((582,000))~~ \$1,906,000 of the disaster response account—state appropriation is provided solely for the state share of response and recovery costs associated with federal emergency management agency (FEMA) disasters approved in the 1999-01 biennium budget. The military department may, upon approval of the director of financial management, use portions of the disaster response account—state appropriation to offset costs of new disasters occurring before June 30, 2003. The military department shall submit a report quarterly to the office of financial management and the legislative fiscal committees detailing disaster costs, including: (a) Estimates of total costs; (b) incremental changes from the previous estimate; (c) actual expenditures; (d) estimates of total remaining costs to be paid; and (d) estimates of future payments by biennium. This information shall be displayed by individual disaster, by fund, and by type of assistance. The military department shall also submit a report quarterly to the office of financial management and the legislative fiscal committees detailing information on the disaster response account, including: (a) The amount and type of deposits into the account; (b) the current available fund balance as of the reporting date; and (c) the projected fund balance at the end of the 2001-03 biennium based on current revenue and expenditure patterns.

(2) \$100,000 of the general fund—state fiscal year 2002 appropriation and \$100,000 of the general fund—state fiscal year 2003 appropriation are provided solely for implementation of the conditional scholarship program pursuant to chapter 28B.103 RCW.

(3) \$60,000 of the general fund—state appropriation for fiscal year 2002 and \$60,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Senate Bill No. 5256 (emergency management

compact). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(4) \$35,000 of the general fund—state fiscal year 2002 appropriation and \$35,000 of the general fund—state fiscal year 2003 appropriation are provided solely for the north county emergency medical service.

(5) ~~(\$1,374,000)~~ \$2,145,000 of the Nisqually earthquake account—state appropriation and ~~(\$3,861,000)~~ \$4,174,000 of the Nisqually earthquake account—federal appropriation are provided solely for the military department's costs associated with coordinating the state's response to the February 28, 2001, earthquake.

(6) ~~(\$1,347,000)~~ \$678,000 of the Nisqually earthquake account—state appropriation and ~~(\$5,359,000)~~ \$3,420,000 of the Nisqually earthquake account—federal appropriation are provided solely for mitigation costs associated with the earthquake for state and local agencies. Of the amount from the Nisqually earthquake account—state appropriation, ~~(\$898,000)~~ \$217,000 is provided for the state matching share for state agencies and ~~(\$449,000)~~ \$462,000 is provided for one-half of the local matching share for local entities. The amount provided for the local matching share constitutes a revenue distribution for purposes of RCW 43.135.060(1).

(7) ~~(\$35,163,000)~~ \$8,970,000 of the Nisqually earthquake account—state appropriation and ~~(\$148,575,000)~~ \$42,047,000 of the Nisqually earthquake account—federal appropriation are provided solely for public assistance costs associated with the earthquake for state and local agencies. Of the amount from the Nisqually earthquake account—state appropriation, ~~(\$20,801,000)~~ \$3,924,000 is provided for the state matching share for state agencies and ~~(\$14,362,000)~~ \$5,046,000 is provided for one-half of the local matching share for local entities. The amount provided for the local matching share constitutes a revenue distribution for purposes of RCW 43.135.060(1). ~~((Upon approval of the director of financial management, the military department may use portions of the Nisqually earthquake account—state appropriations to cover other response and recovery costs associated with the Nisqually earthquake that are not eligible for federal emergency management agency reimbursement. The military department is to submit a quarterly report detailing the costs authorized under this subsection to the office of financial management and the legislative fiscal committees.))~~

(8) \$17,234,000 of the Nisqually earthquake account—state appropriation is provided solely to cover other response and recovery costs associated with the Nisqually earthquake that are not eligible for federal emergency management agency reimbursement. Prior to expending funds provided in this subsection, the military department shall obtain prior approval of the director of financial management. Prior to approving any single project of over \$1,000,000, the office of financial management shall notify the fiscal committees of the legislature. The military department is to submit a quarterly report detailing the costs authorized

under this subsection to the office of financial management and the legislative fiscal committees.

(9) \$2,818,000 of the enhanced 911 account—state appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 6034 or House Bill No. 2595 (enhanced 911 excise tax). If neither bill is enacted by June 30, 2002, the amount provided in this subsection shall lapse.

Sec. 146. 2001 2nd sp.s. c 7 s 152 (uncodified) is amended to read as follows:

FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION

General Fund—State Appropriation (FY 2002) \$	((2,154,000))
	<u>2,225,000</u>
General Fund—State Appropriation (FY 2003) \$	((2,154,000))
	<u>2,339,000</u>
TOTAL APPROPRIATION \$	((4,318,000))
	<u>4,564,000</u>

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

(1) \$71,000 of the general fund—state appropriation for fiscal year 2002 and \$214,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the purpose of implementing requirements associated with Initiative Measure No. 775 (home care workers).

(2) \$47,000 of the general fund—state appropriation for fiscal year 2003 is provided solely to implement House Bill No. 2403 and House Bill No. 2540 (higher education collective bargaining). If House Bill No. 2403 is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

Sec. 147. 2001 2nd sp.s. c 7 s 153 (uncodified) is amended to read as follows:

FOR THE GROWTH PLANNING HEARINGS BOARD

General Fund—State Appropriation (FY 2002) \$	1,497,000
General Fund—State Appropriation (FY 2003) \$	((1,506,000))
	<u>1,461,000</u>
TOTAL APPROPRIATION \$	((3,003,000))
	<u>2,958,000</u>

**PART II
HUMAN SERVICES**

Sec. 201. 2001 2nd sp.s. c 7 s 201 (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 initially be allotted as required by this act. Subsequent allotment modifications shall not include transfers of moneys between sections of this act except as expressly provided in this act, nor shall allotment modifications permit moneys that are provided solely for a specified purpose to be used for other than that purpose, except as expressly provided in subsection (3) of this section.

(2) The department of social and health services shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation providing appropriation authority, and an equal amount of appropriated state general fund moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(3)(a) The appropriations to the department of social and health services in this act shall be expended for the programs and in the amounts specified in this act. However, after May 1, 2002, unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2002 among programs after approval by the director of financial management. However, the department shall not transfer state moneys that are provided solely for a specified purpose except as expressly provided in subsection (3)(b) of this section.

(b) To the extent that transfers under subsection (3)(a) of this section are insufficient to fund actual expenditures in excess of fiscal year 2002 caseload forecasts and utilization assumptions in the medical assistance, long-term care, foster care, adoption support, and child support programs, the department may transfer state moneys that are provided solely for a specified purpose after approval by the director of financial management.

(c) The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any allotment modifications.

(4) In the event the department receives additional unrestricted federal funds or achieves savings in excess of that anticipated in this act, the department shall use up to \$5,000,000 of such funds to initiate a pilot project providing integrated support services to homeless individuals needing mental health services, alcohol or substance abuse treatment, medical care, or who demonstrate community safety concerns. Before such a pilot project is initiated, the department shall notify the fiscal committees of the legislature of the plans for such a pilot project including the source of funds to be used.

Sec. 202. 2001 2nd sp.s. c 7 s 202 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
CHILDREN AND FAMILY SERVICES PROGRAM

General Fund—State Appropriation (FY 2002) \$ ~~((225,789,000))~~

	<u>225,104,000</u>
General Fund—State Appropriation (FY 2003) \$	((239,013,000))
	<u>231,042,000</u>
General Fund—Federal Appropriation \$	((372,408,000))
	<u>369,403,000</u>
General Fund—Private/Local Appropriation \$	400,000
Public Safety and Education Account—	
State Appropriation \$	((987,000))
	<u>964,000</u>
Violence Reduction and Drug Enforcement Account—	
State Appropriation \$	((5,702,000))
	<u>5,639,000</u>
TOTAL APPROPRIATION \$	((844,299,000))
	<u>832,552,000</u>

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

(1) \$2,237,000 of the fiscal year 2002 general fund—state appropriation, ((~~\$2,288,000~~)) \$2,271,000 of the fiscal year 2003 general fund—state appropriation, and ((~~\$1,590,000~~)) \$1,584,000 of the general fund—federal appropriation are provided solely for the category of services titled "intensive family preservation services."

(2) \$685,000 of the general fund—state fiscal year 2002 appropriation and \$701,000 of the general fund—state fiscal year 2003 appropriation are provided to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to thirteen children through two years of age. Seventy-five percent of the children served by the facility must be in need of special care as a result of substance abuse by their mothers. The facility shall also provide on-site training to biological, adoptive, or foster parents. The facility shall provide at least three months of consultation and support to parents accepting placement of children from the facility. The facility may recruit new and current foster and adoptive parents for infants served by the facility. The department shall not require case management as a condition of the contract.

(3) \$524,000 of the general fund—state fiscal year 2002 appropriation ((~~and \$536,000~~)), \$375,000 of the general fund—state fiscal year 2003 appropriation, and \$161,000 of the general fund—federal appropriation are provided for up to three nonfacility-based programs for the training, consultation, support, and recruitment of biological, foster, and adoptive parents of children through age three in need of special care as a result of substance abuse by their mothers, except that each program may serve up to three medically fragile nonsubstance-abuse-affected children. In selecting nonfacility-based programs, preference shall be given to programs whose federal or private funding sources have expired or that have successfully performed under the existing pediatric interim care program.

(4) \$1,260,000 of the fiscal year 2002 general fund—state appropriation, \$1,248,000 of the fiscal year 2003 general fund—state appropriation, and (~~(\$4,196,000)~~) \$4,150,000 of the violence reduction and drug enforcement account appropriation are provided solely for the family policy council and community public health and safety networks. The funding level for the family policy council and community public health and safety networks represents a 25 percent reduction below the funding level for the 1999-2001 biennium. Funding levels shall be reduced 25 percent for both the family policy council and network grants. Reductions to network grants shall be allocated so as to maintain current funding levels, to the greatest extent possible, for projects with the strongest evidence of positive outcomes and for networks with substantial compliance with contracts for network grants.

(5) \$2,215,000 of the fiscal year 2002 general fund—state appropriation, \$4,394,000 of the fiscal year 2003 general fund—state appropriation, and \$5,604,000 of the general fund—federal appropriation are provided solely for reducing the average caseload level per case-carrying social worker. Average caseload reductions are intended to increase the amount of time social workers spend in direct contact with the children, families, and foster parents involved with their open cases. The department shall use some of the funds provided in several local offices to increase staff that support case-carrying social workers in ways that will allow social workers to increase direct contact time with children, families, and foster parents. To achieve the goal of reaching an average caseload ratio of 1:24 by the end of fiscal year 2003, the department shall develop a plan for redeploying 30 FTEs to case-carrying social worker and support positions from other areas in the children and family services budget. The FTE redeployment plan shall be submitted to the fiscal committees of the legislature by December 1, 2001.

(6) \$1,000,000 of the fiscal year 2002 general fund—state appropriation and \$1,000,000 of the fiscal year 2003 general fund—state appropriation are provided solely for increasing foster parent respite care services that improve the retention of foster parents and increase the stability of foster placements. The department shall report quarterly to the appropriate committees of the legislature progress against appropriate baseline measures for foster parent retention and stability of foster placements.

(7) \$1,050,000 of the general fund—federal appropriation is provided solely for increasing kinship care placements for children who otherwise would likely be placed in foster care. These funds shall be used for extraordinary costs incurred by relatives at the time of placement, or for extraordinary costs incurred by relatives after placement if such costs would likely cause a disruption in the kinship care placement. \$50,000 of the funds provided shall be contracted to the Washington institute for public policy to conduct a study of kinship care placements. The study shall examine the prevalence and needs of families who are raising related children and shall compare services and policies of Washington state with other states that have a higher rate of kinship care placements in lieu of

foster care placements. The study shall identify possible changes in services and policies that are likely to increase appropriate kinship care placements.

(8) \$3,386,000 of the fiscal year 2002 general fund—state appropriation, ~~(\$7,671,000)~~ \$5,710,000 of the fiscal year 2003 general fund—state appropriation, and ~~(\$20,819,000)~~ \$19,819,000 of the general fund—federal appropriation are provided solely for increases in the cost per case for foster care and adoption support. \$16,000,000 of the general fund—federal amount shall remain unallotted until the office of financial management approves a plan submitted by the department to achieve a higher rate of federal earnings in the foster care program. That plan shall also be submitted to the fiscal committees of the legislature and shall indicate projected federal revenue compared to actual fiscal year 2001 levels. Within the amounts provided for foster care, the department shall increase the basic rate for foster care to an average of \$420 per month on July 1, 2001 (~~and to an average of \$440 per month on July 1, 2002~~). The department shall use the remaining funds provided in this subsection to pay for increases in the cost per case for foster care and adoption support. The department shall seek to control rate increases and reimbursement decisions for foster care and adoption support cases such that the cost per case for family foster care, group care, receiving homes, and adoption support does not exceed the amount assumed in the projected caseload expenditures plus the amounts provided in this subsection.

(9) \$1,767,000 of the general fund—state appropriation for fiscal year 2002, ~~(\$2,461,000)~~ \$1,767,000 of the general fund—state appropriation for fiscal year 2003, and ~~(\$1,485,000)~~ \$1,241,000 of the general fund—federal appropriation are provided solely for rate and capacity increases for child placing agencies. Child placing agencies shall increase their capacity by 15 percent in fiscal year 2002 (~~and 30 percent in fiscal year 2003~~).

(10) The department shall provide secure crisis residential facilities across the state in a manner that: (a) Retains geographic provision of these services; and (b) retains beds in high use areas.

(11) \$125,000 of the general fund—state appropriation for fiscal year 2002 and \$125,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for a foster parent retention program. This program is directed at foster parents caring for children who act out sexually, as described in House Bill No. 1525 (foster parent retention program).

Sec. 203. 2001 2nd sp.s. c 7 s 203 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
JUVENILE REHABILITATION PROGRAM

~~((+)) COMMUNITY SERVICES))~~

General Fund—State Appropriation (FY 2002) \$	((36,625,000))
	<u>83,151,000</u>
General Fund—State Appropriation (FY 2003) \$	((38,125,000))
	<u>79,107,000</u>

General Fund—Federal Appropriation	\$	((14,609,000))
		<u>13,803,000</u>
General Fund—Private/Local Appropriation	\$	((380,000))
		<u>1,110,000</u>
Juvenile Accountability Incentive		
Account—Federal Appropriation	\$	((9,361,000))
		<u>10,461,000</u>
Public Safety and Education		
Account—State Appropriation	\$	((6,196,000))
		<u>6,047,000</u>
Violence Reduction and Drug Enforcement Account—		
State Appropriation	\$	((21,972,000))
		<u>37,174,000</u>
TOTAL APPROPRIATION	\$	((127,268,000))
		<u>230,853,000</u>

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

~~((a))~~ (1) \$686,000 of the violence reduction and drug enforcement account appropriation is provided solely for deposit in the county criminal justice assistance account for costs to the criminal justice system associated with the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county adult court costs associated with the implementation of chapter 338, Laws of 1997 and shall be distributed in accordance with RCW 82.14.310.

~~((b))~~ (2) \$5,980,000 of the violence reduction and drug enforcement account appropriation is provided solely for the implementation of chapter 338, Laws of 1997 (juvenile code revisions). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 338, Laws of 1997 and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

~~((c))~~ (3) \$1,161,000 of the general fund—state appropriation for fiscal year 2002, \$1,162,000 of the general fund—state appropriation for fiscal year 2003, and \$5,190,000 of the violence reduction and drug enforcement account appropriation are provided solely to implement community juvenile accountability grants pursuant to chapter 338, Laws of 1997 (juvenile code revisions). Funds provided in this subsection may be used solely for community juvenile accountability grants, administration of the grants, and evaluations of programs funded by the grants.

~~((d))~~ (4) \$2,515,000 of the violence reduction and drug enforcement account appropriation is provided solely to implement alcohol and substance abuse treatment programs for locally committed offenders. The juvenile rehabilitation administration shall award these moneys on a competitive basis to counties that submitted a plan for the provision of services approved by the division of alcohol and substance abuse. The juvenile rehabilitation administration shall develop

criteria for evaluation of plans submitted and a timeline for awarding funding and shall assist counties in creating and submitting plans for evaluation.

~~((e))~~ (5) \$100,000 of the general fund—state appropriation for fiscal year 2002 and \$100,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for juvenile rehabilitation administration to contract with the institute for public policy for responsibilities assigned in chapter 338, Laws of 1997 (juvenile code revisions).

~~((f))~~ (6) \$100,000 of the general fund—state appropriation for fiscal year 2002 and \$100,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for a contract for expanded services of the teamchild project.

~~((g))~~ (7) \$423,000 of the general fund—state appropriation for fiscal year 2002, ~~(\$924,000)~~ \$754,100 of the general fund—state appropriation for fiscal year 2003, ~~(\$174,000)~~ \$152,000 of the general fund—federal appropriation, ~~(\$196,000)~~ \$172,000 of the public safety and education assistance account appropriation, and ~~(\$690,000)~~ \$604,000 of the violence reduction and drug enforcement account appropriation are provided solely to increase payment rates for contracted service providers.

~~((h))~~ (8) \$16,000 of the general fund—state appropriation for fiscal year 2002 and \$16,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of chapter 167, Laws of 1999 (firearms on school property). The amounts provided in this subsection are intended to provide funding for county impacts associated with the implementation of chapter 167, Laws of 1999, and shall be distributed to counties as prescribed in the current consolidated juvenile services (CJS) formula.

~~((i))~~ (9) \$3,441,000 of the general fund—state appropriation for fiscal year 2002 and \$3,441,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. The department shall not retain any portion of these funds to cover administrative or any other departmental costs. The department, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

~~((j))~~ (10) \$6,000,000 of the public safety and education account—state appropriation is provided solely for distribution to county juvenile court administrators to fund the costs of processing truancy, children in need of services, and at-risk youth petitions. ~~((To the extent that distributions made under (i) and (j) of this subsection and pursuant to section 801 of this act exceed actual costs of processing truancy, children in need of services, and at-risk youth petitions, the department, in consultation with the respective juvenile court administrator and the county, may approve expenditure of funds provided in this subsection on other costs of the civil or criminal justice system. When this occurs, the department shall~~

notify the office of financial management and the legislative fiscal committees.) The department shall not retain any portion of these funds to cover administrative or any other departmental costs. The department, in conjunction with the juvenile court administrators, shall develop an equitable funding distribution formula. The formula shall neither reward counties with higher than average per-petition processing costs nor shall it penalize counties with lower than average per-petition processing costs.

~~((t))~~ (11) The distributions made under ~~((t))~~ (9) and ~~((t))~~ (10) of this subsection and distributions from the county criminal justice assistance account made pursuant to section 801 of this act constitute appropriate reimbursement for costs for any new programs or increased level of service for purposes of RCW 43.135.060.

~~((t))~~ (12) Each quarter during the 2001-03 fiscal biennium, each county shall report the number of petitions processed and the total actual costs of processing the petitions in each of the following categories: Truancy, children in need of services, and at-risk youth. Counties shall submit the reports to the department no later than 45 days after the end of the quarter. The department shall forward this information to the chair and ranking minority member of the house of representatives appropriations committee and the senate ways and means committee no later than 60 days after a quarter ends. These reports are deemed informational in nature and are not for the purpose of distributing funds.

~~((m))~~ (13) \$1,692,000 of the juvenile accountability incentive account—federal appropriation is provided solely for the continued implementation of a pilot program to provide for postrelease planning and treatment of juvenile offenders with co-occurring disorders.

~~((m))~~ (14) \$22,000 of the violence reduction and drug enforcement account appropriation is provided solely for the evaluation of the juvenile offender co-occurring disorder pilot program implemented pursuant to (m) of this subsection.

~~((t))~~ (15) \$900,000 of the general fund—state appropriation for fiscal year 2002 and \$900,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the continued implementation of the juvenile violence prevention grant program established in section 204, chapter 309, Laws of 1999.

~~((p))~~ (16) \$33,000 of the general fund—state appropriation for fiscal year 2002 and \$29,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of House Bill No. 1070 (juvenile offender basic training). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

~~((t))~~ (17) \$21,000 of the general fund—state appropriation for fiscal year 2002 and \$42,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Senate Bill No. 5468 (chemical dependency). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

~~((17))~~ (18) The juvenile rehabilitation administration, in consultation with the juvenile court administrators, may agree on a formula to allow the transfer of funds among amounts appropriated for consolidated juvenile services, community juvenile accountability act grants, the chemically dependent disposition alternative, and the special sex offender disposition alternative.

~~((2))~~ INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2002)	\$	46,773,000
General Fund—State Appropriation (FY 2003)	\$	48,735,000
General Fund—Federal Appropriation	\$	14,000
General Fund—Private/Local Appropriation	\$	740,000
Violence Reduction and Drug Enforcement Account—		
State Appropriation	\$	15,280,000
TOTAL APPROPRIATION	\$	111,542,000

~~The appropriations in this subsection are subject to the following conditions and limitations:)~~ (19) \$40,000 of the general fund—state appropriation for fiscal year 2002 and ~~((84,000))~~ \$68,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase payment rates for contracted service providers.

~~((3))~~ PROGRAM SUPPORT

General Fund—State Appropriation (FY 2002)	\$	1,738,000
General Fund—State Appropriation (FY 2002)	\$	1,738,000
General Fund—Federal Appropriation	\$	307,000
Juvenile Accountability Incentive Account—Federal		
Appropriation	\$	1,100,000
Violence Reduction and Drug Enforcement Account—		
State Appropriation	\$	421,000
TOTAL APPROPRIATION	\$	5,331,000))

(20) \$945,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for providing additional research-based services to the juvenile parole population. The juvenile rehabilitation administration shall consult with the institute for public policy in deciding which interventions to provide to the parole population.

(21) The juvenile rehabilitation administration shall continue to allot and expend funds provided in this section by the category and budget unit structure submitted to the legislative evaluation and accountability program committee.

*Sec. 204. 2001 2nd sp.s. c 7 s 204 (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES/REGIONAL SUPPORT NETWORKS

General Fund—State Appropriation (FY 2002)	\$	((191,089,000))
		<u>194,566,000</u>

General Fund—State Appropriation (FY 2003) \$	((194,884,000))
	<u>177,206,000</u>
General Fund—Federal Appropriation \$	((339,077,000))
	<u>358,377,000</u>
General Fund—Local Appropriation \$	((4,363,000))
	<u>25,596,000</u>
Health Services Account—State	
Appropriation \$	2,450,000
TOTAL APPROPRIATION \$	((731,863,000))
	<u>758,195,000</u>

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

(a) Regional support networks shall use portions of the general fund—state appropriation for implementation of working agreements with the vocational rehabilitation program which will maximize the use of federal funding for vocational programs.

(b) From the general fund—state appropriations in this subsection, the secretary of social and health services shall assure that regional support networks reimburse the aging and adult services program for the general fund—state cost of medicaid personal care services that enrolled regional support network consumers use because of their psychiatric disability.

(c) \$388,000 of the general fund—state appropriation for fiscal year 2002, ((~~\$1,927,000~~)) \$2,829,000 of the general fund—state appropriation for fiscal year 2003, and ((~~\$2,349,000~~)) \$3,157,000 of the general fund—federal appropriation are provided solely for development and operation of community residential and support services for persons whose treatment needs constitute substantial barriers to community placement and who no longer require active psychiatric treatment at an inpatient hospital level of care, no longer meet the criteria for inpatient involuntary commitment, and who are clinically ready for discharge from a state psychiatric hospital. In the event that enough patients are not transitioned or diverted from the state hospitals to close at least two hospital wards by July 2002, and ((~~two~~)) four additional wards by April 2003, a proportional share of these funds shall be transferred to the appropriations in subsection (2) of this section to support continued care of the patients in the state hospitals. Primary responsibility and accountability for provision of appropriate community support for persons placed with these funds shall reside with the mental health program and the regional support networks, with partnership and active support from the alcohol and substance abuse and from the aging and adult services programs. The department shall negotiate performance-based incentive contracts ((~~with those regional support networks which have the most viable plans for providing appropriate community support services for significant numbers of persons from their area who would otherwise be served in the state hospitals~~)) to provide appropriate community support services for individuals leaving the state hospitals

under this subsection. The department shall first seek to contract with regional support networks before offering a contract to any other party. The funds appropriated in this subsection shall not be considered "available resources" as defined in RCW 71.24.025 and are not subject to the standard allocation formula applied in accordance with RCW 71.24.035(13)(a).

(d) At least \$1,000,000 of the federal block grant funding appropriated in this subsection shall be used for (i) initial development, training, and operation of the community support teams which will work with long-term state hospital residents prior and subsequent to their return to the community; and (ii) development of support strategies which will reduce the unnecessary and excessive use of state and local hospitals for short-term crisis stabilization services. Such strategies may include training and technical assistance to community long-term care and substance abuse providers; the development of diversion beds and stabilization support teams; examination of state hospital policies regarding admissions; and the development of new contractual standards to assure that the statutory requirement that 85 percent of short-term detentions be managed locally is being fulfilled. The department shall report to the fiscal and policy committees of the legislature on the results of these efforts by November 1, 2001, and again by November 1, 2002.

(e) The department is authorized to implement a new formula for allocating available resources among the regional support networks. The distribution formula shall use the number of persons eligible for the state medical programs funded under chapter 74.09 RCW as the measure of the requirement for the number of acutely mentally ill, chronically mentally ill, severely emotionally disturbed children, and seriously disturbed in accordance with RCW 71.24.035(13)(a). The new formula shall be phased in over a period of no less than six years. Furthermore, the department shall increase the medicaid capitation rates which a regional support network would otherwise receive under the formula by an amount sufficient to assure that total funding allocated to the regional support network in fiscal year 2002 increases by up to ~~((2+))~~ 3.5 percent over the amount actually paid to that regional support network in fiscal year 2001, and by up to an additional ~~((2-3))~~ 5.0 percent in fiscal year 2003, if total funding to the regional support network would otherwise increase by less than those percentages under the new formula, and provided that the nonfederal share of the higher medicaid payment rate is provided by the regional support network from local funds.

(f) Within funds appropriated in this subsection, the department shall contract with the Clark county regional support network for development and operation of a project demonstrating collaborative methods for providing intensive mental health services in the school setting for severely emotionally disturbed children who are medicaid eligible. Project services are to be delivered by teachers and teaching assistants who qualify as, or who are under the supervision of, mental health professionals meeting the requirements of chapter 275-57 WAC. The department shall increase medicaid payments to the regional support network by the amount necessary to cover the necessary and allowable costs of the

demonstration, not to exceed the upper payment limit specified for the regional support network in the department's medicaid waiver agreement with the federal government after meeting all other medicaid spending requirements assumed in this subsection. The regional support network shall provide the department with (i) periodic reports on project service levels, methods, and outcomes; and (ii) an intergovernmental transfer equal to the state share of the increased medicaid payment provided for operation of this project.

(g) The health services account appropriation is provided solely for implementation of strategies which the department and the affected regional support networks conclude will best assure continued availability of community-based inpatient psychiatric services in all areas of the state. Such strategies may include, but are not limited to, emergency contracts for continued operation of inpatient facilities otherwise at risk of closure because of demonstrated uncompensated care; start-up grants for development of evaluation and treatment facilities; and increases in the rate paid for inpatient psychiatric services for medically indigent and/or general assistance for the unemployed patients. The funds provided in this subsection must be: (i) Prioritized for use in those areas of the state which are at greatest risk of lacking sufficient inpatient psychiatric treatment capacity, rather than being distributed on a formula basis; (ii) prioritized for use by those hospitals which do not receive low-income disproportionate share hospital payments as of the date of application for funding; and (iii) matched on a one-quarter local, three-quarters state basis by funding from the regional support network or networks in the area in which the funds are expended. Payments from the amount provided in this subsection shall not be made to any provider that has not agreed that, except for prospective rate increases, the payment shall offset, on a dollar-for-dollar basis, any liability that may be established against, or any settlement that may be agreed to by the state, regarding the rate of state reimbursement for inpatient psychiatric care. The funds provided in this subsection shall not be considered "available resources" as defined in RCW 71.24.025 and are not subject to the distribution formula established pursuant to RCW 71.24.035.

(h) The department shall assure that no regional support network uses more than 8.0 percent of the state and federal funds received from appropriations in this subsection for regional support network administration.

(i) The department shall assure that each regional support network increases spending on direct client services in fiscal years 2002 and 2003 by at least the same percentage as the total state, federal, and local funds allocated to the regional support network in those years exceeds the amounts allocated to it in fiscal year 2001.

(j) The department shall reduce state funding otherwise payable to a regional support network in fiscal years 2002 and 2003 by the full amount by which the regional support network's reserves and fund balances as of December 31, 2001, exceed the required risk reserve for that regional support network. The required reserve amount shall be calculated by applying the risk reserve percentage

specified in the department's contract with the regional support network to the total state and federal revenues for which the regional support network would otherwise be eligible in accordance with this subsection. As used in this subsection, "reserves" does not include capital project reserves established in accordance with state accounting and reporting standards before January 1, 2002.

(k) The department shall cooperate with the department of community, trade, and economic development to develop a proposal to create a structurally and functionally independent mental health ombudsman program. The proposal shall include recommendations about the statutory and administrative changes needed to establish a structurally and functionally independent ombudsman system. The departments shall report to the appropriate policy and fiscal committees of the legislature by November 1, 2002.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2002) \$	((85,836,000)) 84,878,000
General Fund—State Appropriation (FY 2003) \$	((83,001,000)) 80,784,000
General Fund—Federal Appropriation \$	((139,098,000)) 139,821,000
General Fund—Private/Local Appropriation \$	((29,289,000)) 29,532,000
TOTAL APPROPRIATION \$	((337,224,000)) 335,015,000

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

(a) The state mental hospitals may use funds appropriated in this subsection to purchase goods and supplies through hospital group purchasing organizations when it is cost-effective to do so.

(b) The mental health program at Western state hospital shall continue to use labor provided by the Tacoma prerelease program of the department of corrections.

(c) The department shall seek to reduce the census of the two state psychiatric hospitals by ~~((120))~~ 178 beds by April 2003 by arranging and providing community residential, mental health, and other support services for long-term state hospital patients whose treatment needs constitute substantial barriers to community placement and who no longer require active psychiatric treatment at an inpatient hospital level of care, no longer meet the criteria for inpatient involuntary commitment, and who are clinically ready for discharge from a state psychiatric hospital. No such patient is to move from the hospital until a team of community professionals has become familiar with the person and their treatment plan; assessed their strengths, preferences, and needs; arranged a safe, clinically-appropriate, and stable place for them to live; assured that other needed medical, behavioral, and social services are in place; and is contracted to monitor the person's progress on an ongoing basis. The department and the regional support

networks shall endeavor to assure that hospital patients are able to return to their area of origin, and that placements are not concentrated in proximity to the hospitals.

(d) For each month subsequent to the month in which a state hospital bed has been closed in accordance with (c) of this subsection, the mental health program shall transfer to the medical assistance program state funds equal to the state share of the monthly per capita expenditure amount estimated for categorically needy-disabled persons in the most recent forecast of medical assistance expenditures.

(e) The department shall report to the appropriate committees of the legislature by November 1, 2001, and by November 1, 2002, on its plans for and progress toward achieving the objectives set forth in (c) of this subsection.

(3) CIVIL COMMITMENT

General Fund—State Appropriation (FY 2002) \$	((20,037,000))
	<u>18,267,000</u>
General Fund—State Appropriation (FY 2003) \$	((22,441,000))
	<u>20,934,000</u>
TOTAL APPROPRIATION \$	((42,478,000))
	<u>39,201,000</u>

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

(a) ((~~\$2,062,000~~)) \$1,587,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$3,698,000~~)) \$2,646,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for operational costs associated with a less restrictive step-down placement facility on McNeil Island.

(b) ((~~\$1,000,000~~)) \$300,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$1,000,000~~)) \$300,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for mitigation funding for jurisdictions affected by the placement of less restrictive alternative facilities for persons conditionally released from the special commitment center facility being constructed on McNeil Island. Of this amount, up to \$45,000 per year is provided for the city of Lakewood for police protection reimbursement at Western State Hospital and adjacent areas, up to \$45,000 per year is provided for training police personnel on chapter 12, Laws of 2001, 2nd sp. sess. (3ESSB 6151), up to \$125,000 per year is provided for Pierce county for reimbursement of additional costs, and the remaining amounts are for other documented costs by jurisdictions directly impacted by the placement of the secure community transition facility on McNeil Island. Pursuant to chapter 12, Laws of 2001, 2nd sp. sess (3ESSB 6151), the department shall continue to work with local jurisdictions towards reaching agreement for mitigation costs.

(c) By October 1, 2001, the department shall report to the office of financial management and the fiscal committees of the house of representatives and senate detailing information on plans for increasing the efficiency of staffing patterns at the new civil commitment center facility being constructed on McNeil Island.

(d) \$600,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the implementation of Substitute Senate Bill No. 6594 (secure community transition facilities). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(4) SPECIAL PROJECTS

General Fund—State Appropriation (FY 2002) \$	444,000
General Fund—State Appropriation (FY 2003) \$	443,000
General Fund—Federal Appropriation \$	2,082,000
TOTAL APPROPRIATION \$	2,969,000

(5) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2002) \$	3,104,000
General Fund—State Appropriation (FY 2003) \$	((3,231,000))
	<u>3,111,000</u>
General Fund—Federal Appropriation \$	((5,796,000))
	<u>5,659,000</u>
TOTAL APPROPRIATION \$	((12,131,000))
	<u>11,874,000</u>

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

(a) \$113,000 of the general fund—state appropriation for fiscal year 2002, \$125,000 of the general fund—state appropriation for fiscal year 2003, and \$164,000 of the general fund—federal appropriation are provided solely for the institute for public policy to evaluate the impacts of chapter 214, Laws of 1999 (mentally ill offenders), chapter 217, Laws of 2000 (atypical anti-psychotic medications), chapter 297, Laws of 1998 (commitment of mentally ill persons), and chapter 334, Laws of 2001 (mental health performance audit).

(b) \$168,000 of the general fund—state appropriation for fiscal year 2002, \$243,000 of the general fund—state appropriation for fiscal year 2003, and \$411,000 of the general fund—federal appropriation are provided solely for the development and implementation of a uniform outcome-oriented performance measurement system to be used in evaluating and managing the community mental health service delivery system consistent with the recommendations contained in the joint legislative audit and review committee’s audit of the public mental health system. Once implemented, the use of performance measures will allow comparison of measurement results to established standards and benchmarks among regional support networks, service providers, and against other states. The department shall provide a report to the appropriate committees of the legislature on the development and implementation of the use of performance measures by October 2002.

(c) \$125,000 of the general fund—state appropriation for fiscal year 2002, \$125,000 of the general fund—state appropriation for fiscal year 2003, and \$250,000 of the general fund—federal appropriation are provided solely for a

study of the prevalence of mental illness among the state's regional support networks and the appropriate allocation of state hospital beds among the networks. The prevalence study shall examine how reasonable estimates of the prevalence of mental illness relate to the incidence of persons enrolled in medical assistance programs in each regional support network area. In conducting ((this)) the prevalence study, the department shall consult with the joint legislative audit and review committee, regional support networks, community mental health providers, and mental health consumer representatives. The department shall submit a final report on ((its)) the findings of the prevalence study to the fiscal, health care, and human services committees of the legislature by November 1, 2003. In preparing the report on allocation of state hospital beds, the department shall: (i) Utilize the most current and reliable applicable academic research, and shall consult with academic and other national experts on mental health inpatient care; (ii) estimate the relative need for short-term and long-term inpatient psychiatric care in each of the state's regions, based on the factors that the experts identify as the best predictors of need, including geographic proximity to the hospitals; and (iii) identify options for changing the current distribution of state hospital beds among the regional support networks. This report shall be prepared in consultation with representatives of people with mental illness and the regional support networks, and shall be submitted to appropriate committees of the legislature. The department shall maintain the same relative allocation of budgeted, nonforensic state hospital beds among the regional support networks as was in effect during fiscal year 2002 until at least thirty days after adjournment of the first regular legislative session following submission of the report on the appropriate allocation of these beds. This subsection does not prohibit the replacement of current state hospital beds with community alternatives as provided elsewhere in this section.

*Sec. 204 was partially vetoed. See message at end of chapter.

*Sec. 205. 2001 2nd sp.s. c 7 s 205 (uncodified) is amended to read as follows:

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

(1) COMMUNITY SERVICES

General Fund—State Appropriation (FY 2002)	\$	((231,693,000))
		<u>233,705,000</u>
General Fund—State Appropriation (FY 2003)	\$	((242,347,000))
		<u>255,415,000</u>
General Fund—Federal Appropriation	\$	((396,151,000))
		<u>405,773,000</u>
Health Services Account—State		
Appropriation	\$	((741,000))
		<u>903,000</u>

TOTAL APPROPRIATION \$	((870,932,000))
	895,796,000

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

(a) The legislature finds that comprehensive reform of the developmental disabilities program is required. Recent audits and litigation indicate a need to improve the quality of program data, strengthen program and fiscal management, and clarify the criteria and determination of eligibility for services. Additional resources are also needed to expand access to community services. The appropriations in this section are intended to address the most urgent needs while strengthening program and fiscal accountability. The department shall provide monthly progress reports to the appropriate committees of the legislature on actions taken in three areas: The implementation of expanded services, the development and implementation of a new home and community based medicaid waiver, and improvements in program and fiscal management.

(b) \$10,050,000 of the fiscal year 2003 general fund—state appropriation and \$3,550,000 of the general fund—federal appropriation are provided solely for expanded access to community services. A total of \$7,800,000 is provided for additional residential services for persons on the home and community based waiver. A total of \$3,600,000 is provided for family support and high school transition. A total of \$2,700,000 is provided between this subsection and subsection (3) of this section for staffing and other costs to improve oversight of quality of care, program management, and fiscal management. New funding for family support and high school transition along with a portion of existing funding for these programs shall be provided as supplemental security income (SSI) state supplemental payments. The legislature finds that providing cash assistance to individuals and families needing these supports promotes self-determination and independence. It is the intent of the legislature that the department shall comply with federal requirements to maintain aggregate funding for SSI state supplemental payments while promoting self-determination and independence for persons with developmental disabilities in families with taxable incomes at or below 150 percent of median family income. Individuals receiving family support or high school transition payments shall not become eligible for medical assistance under RCW 74.09.510 due solely to the receipt of SSI state supplemental payments. These amounts and the specified expansion of community services are intended to be the fiscal component of the negotiated settlement in the pending litigation on developmental disabilities services, *ARC v. Quasim*.

(c) The health services account appropriation and ((~~\$753,000~~)) \$904,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers with family incomes below 200 percent of the federal poverty level who are employed through state contracts for twenty hours per week or more. Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan. Home care agencies may obtain

coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits.

~~((b))~~ (d) \$902,000 of the general fund—state appropriation for fiscal year 2002, \$3,372,000 of the general fund—state appropriation for fiscal year 2003, and \$4,056,000 of the general fund—federal appropriation are provided solely for community services for residents of residential habilitation centers (RHCs) who are able to be adequately cared for in community settings and who choose to live in those community settings. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$280. If the number and timing of residents choosing to move into community settings is not sufficient to achieve the RHC cottage consolidation plan assumed in the appropriations in subsection (2) of this section, the department shall transfer sufficient appropriations from this subsection to subsection (2) of this section to cover the added costs incurred in the RHCs. The department shall report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of residents moving into community settings and the actual expenditures for all community services to support those residents.

~~((c) \$1,440,000)~~ (e) \$1,153,000 of the general fund—state appropriation for fiscal year 2002, ~~((3,041,000))~~ \$3,054,000 of the general fund—state appropriation for fiscal year 2003, and ~~((4,311,000))~~ \$4,031,000 of the general fund—federal appropriation are provided solely for expanded community services for persons with developmental disabilities who also have community protection issues or are diverted or discharged from state psychiatric hospitals. The department shall ensure that the average cost per day for all program services other than start-up costs shall not exceed \$275. The department shall report to the appropriate committees of the legislature, within 45 days following each fiscal year quarter, the number of persons served with these additional community services, where they were residing, what kinds of services they were receiving prior to placement, and the actual expenditures for all community services to support these clients.

~~((d) \$1,005,000 of the general fund—state appropriation for fiscal year 2002, \$2,262,000 of the general fund—state appropriation for fiscal year 2003, and \$2,588,000 of the general fund—federal appropriation are provided solely for increasing case/resource management resources to improve oversight and quality of care for persons enrolled in the medicaid home and community services waiver for persons with developmental disabilities.))~~ (f) The department shall not increase total enrollment in home and community based waivers for persons with developmental disabilities except for ~~((increases))~~ changes assumed in additional funding provided in subsections (b) ~~((and (c)))~~, (d), and (e) of this section. Prior to submitting to the health care financing authority any additional home and community based waiver request for persons with developmental disabilities, the department shall submit a summary of the waiver request to the appropriate committees of the legislature. The summary shall include eligibility criteria,

program description, enrollment projections and limits, and budget and cost effectiveness projections that distinguish the requested waiver from other existing or proposed waivers.

((e)) (g) \$1,000,000 of the general fund—state appropriation for fiscal year 2002 and \$1,000,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for employment, or other day activities and training programs, for young adults with developmental disabilities who complete their high school curriculum in 2001 or 2002. These services are intended to assist with the transition to work and more independent living. Funding shall be used to the greatest extent possible for vocational rehabilitation services matched with federal funding. In recent years, the state general fund appropriation for employment and day programs has been underspent. These surpluses, built into the carry forward level budget, shall be redeployed for high school transition services.

((f)) (h) \$369,000 of the fiscal year 2002 general fund—state appropriation and \$369,000 of the fiscal year 2003 general fund—state appropriation are provided solely for continuation of the autism pilot project started in 1999.

((g)) (i) \$4,049,000 of the general fund—state appropriation for fiscal year 2002, \$1,734,000 of the general fund—state appropriation for fiscal year 2003, and \$5,369,000 of the general fund—federal appropriation are provided solely to increase compensation by an average of fifty cents per hour for low-wage workers providing state-funded services to persons with developmental disabilities. These funds, along with funding provided for vendor rate increases, are sufficient to raise wages an average of fifty cents and cover the employer share of unemployment and social security taxes on the amount of the wage increase. In consultation with the statewide associations representing such agencies, the department shall establish a mechanism for testing the extent to which funds have been used for this purpose, and report the results to the fiscal committees of the legislature by February 1, 2002.

(j) \$1,310,000 of the general fund—state appropriation for fiscal year 2003 and \$1,207,000 of the general fund—federal appropriation are provided solely for an increase of twenty-five cents per hour on October 1, 2002, for individual and agency home care workers who provide state-funded services to persons with developmental disabilities. The amount provided in this section also includes the funds needed for the employer share of unemployment and social security taxes on the amount of the wage increase required by this subsection. The wage increases for individual providers required by this subsection are subject to the collective bargaining provisions of Initiative Measure No. 1-775 (chapter 3, Laws of 2002).

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2002) \$	((71,977,000))
	69,375,000
General Fund—State Appropriation (FY 2003) \$	((69,303,000))
	68,203,000

General Fund—Federal Appropriation	\$	((145,641,000))
		<u>145,672,000</u>
General Fund—Private/Local Appropriation	\$	((10,230,000))
		<u>11,230,000</u>
TOTAL APPROPRIATION	\$	((297,151,000))
		<u>294,480,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: Pursuant to RCW 71A.12.160, if residential habilitation center capacity is not being used for permanent residents, the department (~~(may)~~) shall make residential habilitation center vacancies available for respite care and any other services needed to care for clients who are not currently being served in a residential habilitation center and whose needs require staffing levels similar to current residential habilitation center residents. Providing respite care shall not impede the department’s ability to consolidate cottages, and maintain expenditures within allotments, as assumed in the appropriations in this subsection.

(3) PROGRAM SUPPORT

General Fund—State Appropriation (FY 2002)	\$	((2,601,000))
		<u>1,711,000</u>
General Fund—State Appropriation (FY 2003)	\$	((2,623,000))
		<u>2,007,000</u>
General Fund—Federal Appropriation	\$	((2,413,000))
		<u>2,612,000</u>
<u>Telecommunications Devices for the Hearing and</u>		
<u>Speech Impaired Account Appropriation</u>	\$	<u>1,767,000</u>
TOTAL APPROPRIATION	\$	((7,637,000))
		<u>8,097,000</u>

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

(a) \$270,000 of the fiscal year 2003 general fund—state appropriation and \$170,000 of the general fund—federal appropriation are provided solely for improved fiscal management of the home and community-based waiver and other community services.

(b) (~~(\$50,000 of the fiscal year 2002 general fund—state appropriation and \$50,000 of the fiscal year 2003 general fund—state appropriation are)~~) \$100,000 of the telecommunications devices for the hearing and speech impaired account appropriation is provided solely for increasing the contract amount for the southeast Washington deaf and hard of hearing services center due to increased workload.

(4) SPECIAL PROJECTS

General Fund—Federal Appropriation	\$	11,995,000
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*Sec. 205 was partially vetoed. See message at end of chapter.

*Sec. 206. 2001 2nd sp.s. c 7 s 206 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES--
AGING AND ADULT SERVICES PROGRAM**

General Fund—State Appropriation (FY 2002) \$	((518,911,000)) <u>505,983,000</u>
General Fund—State Appropriation (FY 2003) \$	((537,907,000)) <u>513,154,000</u>
General Fund—Federal Appropriation \$	((1,078,417,000)) <u>1,053,299,000</u>
General Fund—Private/Local Appropriation \$	((4,324,000)) <u>11,803,000</u>
Health Services Account—State	
Appropriation \$	4,523,000
TOTAL APPROPRIATION \$	((2,144,082,000)) <u>2,088,762,000</u>

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

(1) The entire health services account appropriation, \$1,210,000 of the general fund—state appropriation for fiscal year 2002, \$1,423,000 of the general fund—state appropriation for fiscal year 2003, and \$6,794,000 of the general fund—federal appropriation are provided solely for health care benefits for home care workers who are employed through state contracts for at least twenty hours per week. Premium payments for individual provider home care workers shall be made only to the subsidized basic health plan, and only for persons with incomes below 200 percent of the federal poverty level. Home care agencies may obtain coverage either through the basic health plan or through an alternative plan with substantially equivalent benefits.

(2) \$1,706,000 of the general fund—state appropriation for fiscal year 2002 and \$1,706,000 of the general fund—state appropriation for fiscal year 2003, plus the associated vendor rate increase for each year, are provided solely for operation of the volunteer chore services program.

(3) For purposes of implementing chapter 74.46 RCW, the weighted average nursing facility payment rate shall be no more than \$128.79 for fiscal year 2002, and no more than ~~((134.45))~~ \$132.58 for fiscal year 2003. For all facilities, the therapy care, support services, and operations component rates established in accordance with chapter 74.46 RCW shall be adjusted for economic trends and conditions by 2.1 percent effective July 1, 2001, and by an additional ~~((2.3))~~ 1.5 percent effective July 1, 2002. For case-mix facilities, direct care component rates established in accordance with chapter 74.46 RCW shall also be adjusted for economic trends and conditions by 2.1 percent effective July 1, 2001, and by an additional 2.3 percent effective July 1, 2002. Additionally, to facilitate the transition to a fully case-mix based direct care payment system, the median price

per case-mix unit for each of the applicable direct care peer groups shall be increased on a one-time basis by 2.64 percent effective July 1, 2002.

(4) In accordance with Substitute House Bill No. 2242 (nursing home rates), the department shall issue certificates of capital authorization which result in up to \$10 million of increased asset value completed and ready for occupancy in fiscal year 2003; in up to \$27 million of increased asset value completed and ready for occupancy in fiscal year 2004; and in up to \$27 million of increased asset value completed and ready for occupancy in fiscal year 2005.

(5) Adult day health services shall not be considered a duplication of services for persons receiving care in long-term care settings licensed under chapter 18.20, 72.36, or 70.128 RCW.

(6) Within funds appropriated in this section and in section 204 of this act, the aging and adult services program shall coordinate with and actively support the efforts of the mental health program and of the regional support networks to provide stable community living arrangements for persons with dementia and traumatic brain injuries who have been long-term residents of the state psychiatric hospitals. The aging and adult services program shall report to the health care and fiscal committees of the legislature by November 1, 2001, and by November 1, 2002, on the actions it has taken to achieve this objective.

(7) Within funds appropriated in this section and in section 204 of this act, the aging and adult services program shall devise and implement strategies in partnership with the mental health program and the regional support networks to reduce the use of state and local psychiatric hospitals for the short-term stabilization of persons with dementia and traumatic brain injuries. Such strategies may include training and technical assistance to help long-term care providers avoid and manage behaviors which might otherwise result in psychiatric hospitalizations; monitoring long-term care facilities to assure residents are receiving appropriate mental health care and are not being inappropriately medicated or hospitalized; the development of diversion beds and stabilization support teams; and the establishment of systems to track the use of psychiatric hospitals by long-term care providers. The aging and adult services program shall report to the health care and fiscal committees of the legislature by November 1, 2001, and by November 1, 2002, on the actions it has taken to achieve this objective.

(8) In accordance with Substitute House Bill No. 1341, the department may implement ~~((two))~~ a medicaid waiver program~~((s))~~ for persons who do not qualify for such services as categorically needy, subject to federal approval and the following conditions and limitations:

(a) ~~((One))~~ The waiver program shall include coverage of ~~((home-based services, and the second shall include coverage of))~~ care in community residential facilities. ~~((Enrollment in the waiver covering home-based services shall not exceed 150 persons by the end of fiscal year 2002, nor 200 persons by the end of fiscal year 2003.))~~ Enrollment in the waiver ~~((covering community residential~~

services)) shall not exceed ((500)) 50 persons by the end of fiscal year 2002, nor ((900)) 600 persons by the end of fiscal year 2003.

(b) For each month of waiver service delivered to a person who was not covered by medicaid prior to their enrollment in the waiver, the aging and adult services program shall transfer to the medical assistance program state and federal funds equal to the monthly per capita expenditure amount, net of drug rebates, estimated for medically needy-aged persons in the most recent forecast of medical assistance expenditures.

(c) The department shall identify the number of medically needy nursing home residents, and enrollment and expenditures on ((each of)) the ((two)) medically needy waiver((s)), on monthly management reports.

(d) The department shall track and report to health care and fiscal committees of the legislature by November 15, 2002, on the types of long-term care support a sample of waiver participants were receiving prior to their enrollment in the waiver, how those services were being paid for, and an assessment of their adequacy.

(9) \$50,000 of the general fund—state appropriation for fiscal year 2002 and \$50,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for payments to any nursing facility licensed under chapter 18.51 RCW which meets all of the following criteria: (a) The nursing home entered into an arm's length agreement for a facility lease prior to January 1, 1980; (b) the lessee purchased the leased nursing home after January 1, 1980; and (c) the lessor defaulted on its loan or mortgage for the assets of the home after January 1, 1991, and prior to January 1, 1992. Payments provided pursuant to this subsection shall not be subject to the settlement, audit, or rate-setting requirements contained in chapter 74.46 RCW.

(10) \$364,000 of the general fund—state appropriation for fiscal year 2002, \$364,000 of the general fund—state appropriation for fiscal year 2003, and \$740,000 of the general fund—federal appropriation are provided solely for payment of exceptional care rates so that persons with Alzheimer's disease and related dementias who might otherwise require nursing home or state hospital care can instead be served in boarding home-licensed facilities which specialize in the care of such conditions.

(11) From funds appropriated in this section, the department shall increase compensation for individual and for agency home care providers. Payments to individual home care providers are to be increased from \$7.18 per hour to \$7.68 per hour on July 1, 2001, and to \$7.93 per hour on October 1, 2002. Payments to agency providers are to be increased to \$13.30 per hour on July 1, 2001, and to \$13.44 per hour on July 1, 2002, and to \$13.72 on October 1, 2002. All but 18 cents per hour of the July 1, 2001, increase to agency providers, and all but 3 cents per hour of the October 1, 2002, increase, is to be used to increase wages for direct care workers. The appropriations in this section also include the funds needed for the employer share of unemployment and social security taxes on the

amount of the wage increase required by this subsection. The October 1, 2002, wage increases for individual providers are subject to the collective bargaining provisions of Initiative Measure No. 775 (chapter 3, Laws of 2002).

(12) \$2,507,000 of the general fund—state appropriation for fiscal year 2002, \$2,595,000 of the general fund—state appropriation for fiscal year 2003, and \$5,100,000 of the general fund—federal appropriation are provided solely for prospective rate increases intended to increase compensation by an average of fifty cents per hour for low-wage workers in agencies which contract with the state to provide community residential services for persons with functional disabilities. In consultation with the statewide associations representing such agencies, the department shall establish a mechanism for testing the extent to which funds have been used for this purpose, and report the results to the fiscal committees of the legislature by February 1, 2002. The amounts in this subsection also include the funds needed for the employer share of unemployment and social security taxes on the amount of the wage increase.

(13) \$1,082,000 of the general fund—state appropriation for fiscal year 2002, \$1,082,000 of the general fund—state appropriation for fiscal year 2003, and \$2,204,000 of the general fund—federal appropriation are provided solely for prospective rate increases intended to increase compensation for low-wage workers in nursing homes which contract with the state. For fiscal year 2002, the department shall add forty-five cents per patient day to the direct care rate which would otherwise be paid to each nursing facility in accordance with chapter 74.46 RCW. For fiscal year 2003, the department shall increase the median price per case-mix unit for each of the applicable peer groups by six-tenths of one percent in order to distribute the available funds. In consultation with the statewide associations representing nursing facilities, the department shall establish a mechanism for testing the extent to which funds have been used for this purpose, and report the results to the fiscal committees of the legislature by February 1, 2002, and by December 1, 2002.

*Sec. 206 was partially vetoed. See message at end of chapter.

*Sec. 207. 2001 2nd sp.s. c 7 s 207 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
ECONOMIC SERVICES PROGRAM**

General Fund—State Appropriation (FY 2002)	\$	((436,440,000))
		<u>442,984,000</u>
General Fund—State Appropriation (FY 2003)	\$	((424,870,000))
		<u>394,974,000</u>
General Fund—Federal Appropriation	\$	((1,356,351,000))
		<u>1,359,505,000</u>
General Fund—Private/Local Appropriation	\$	((31,788,000))
		<u>33,880,000</u>
TOTAL APPROPRIATION	\$	((2,249,449,000))

2,231,343,000

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

(1) (~~(\$282,081,000)~~) \$281,035,000 of the general fund—state appropriation for fiscal year 2002, (~~(\$278,277,000)~~) \$277,231,000 of the general fund—state appropriation for fiscal year 2003, \$1,254,197,000 of the general fund—federal appropriation, and (~~(\$29,352,000)~~) \$31,444,000 of the general fund—local appropriation are provided solely for the WorkFirst program and child support operations. WorkFirst expenditures include TANF grants, diversion services, subsidized child care, employment and training, other WorkFirst related services, allocated field services operating costs, and allocated economic services program administrative costs. Within the amounts provided in this subsection, the department shall:

(a) Continue to implement WorkFirst program improvements that are designed to achieve progress against outcome measures specified in RCW 74.08A.410. Valid outcome measures of job retention and wage progression shall be developed and reported quarterly to appropriate fiscal and policy committees of the legislature for families who leave assistance, measured after 12 months, 24 months, and 36 months. An increased attention to job retention and wage progression is necessary to emphasize the legislature's goal that the WorkFirst program succeed in helping recipients gain long-term economic independence and not cycle on and off public assistance. The wage progression measure shall report the median percentage increase in quarterly earnings and hourly wage after 12 months, 24 months, and 36 months. The wage progression report shall also report the percent with earnings above one hundred percent and two hundred percent of the federal poverty level. The report shall compare former WorkFirst participants with similar workers who did not participate in WorkFirst. The department shall also report the percentage of families who have returned to temporary assistance for needy families after 12 months, 24 months, and 36 months.

(b) Develop informational materials that educate families about the difference between cash assistance and work support benefits. These materials must explain, among other facts, that the benefits are designed to support their employment, that there are no time limits on the receipt of work support benefits, and that immigration or residency status will not be affected by the receipt of benefits. These materials shall be posted in all community service offices and distributed to families. Materials must be available in multiple languages. When a family leaves the temporary assistance for needy families program, receives cash diversion assistance, or withdraws a temporary assistance for needy families application, the department of social and health services shall educate them about the difference between cash assistance and work support benefits and offer them the opportunity to begin or to continue receiving work support benefits, so long as they are eligible. The department shall provide this information through in-person interviews, over the telephone, and/or through the mail. Work support benefits include food

stamps, medicaid for all family members, medicaid or state children's health insurance program for children, and child care assistance. The department shall report annually to the legislature the number of families who have had exit interviews, been reached successfully by phone, and been sent mail. The report shall also include the percentage of families who elect to continue each of the benefits and the percentage found ineligible by each substantive reason code. A substantive reason code shall not be "other." The report shall identify barriers to informing families about work support benefits and describe existing and future actions to overcome such barriers.

(c) From the amounts provided in this subsection, provide \$50,000 from the general fund—state appropriation for fiscal year 2002 and \$50,000 from the general fund—state appropriation for fiscal year 2003 to the Washington institute for public policy for continuation of the WorkFirst evaluation database.

(d) Submit a report by December 1, 2001, to the fiscal committees of the legislature containing a spending plan for the WorkFirst program. The plan shall identify how spending levels in the 2001-2003 biennium will be adjusted by June 30, 2003, to be sustainable within available federal grant levels and the carryforward level of state funds.

(e) Reduce funding contracted to the department of employment security in order to maintain funding for drug and alcohol treatment services designed to help TANF parents enter the job market and keep their jobs.

(f) Provide \$878,000 of the general fund—federal appropriation for the comprehensive alcohol and drug treatment project.

(g) Allocate no more than \$5,800,000 of the general fund—federal appropriation for job search and job placement services operated by the department of employment security.

(h) Eliminate funding contracted to the department of employment security for the WorkFirst post-employment labor exchange program.

(i) Provide \$900,000 of the general fund—federal appropriation for indigent civil legal services.

(j) Increase childcare subsidy co-payments by no more than \$2 per co-payment.

(k) Provide an additional \$4,500,000 of the general fund—federal appropriation for community and technical colleges to fund parenting and family management skills development, other training programs, and enhanced childcare rates for families in those programs.

(l) Provide an additional \$300,000 of the general fund—federal appropriation for after school programs for middle school youth.

(m) Provide \$3,400,000 of the general fund—federal appropriation to the department of health for contracted services with local public health nurses to provide consultation and training to childcare providers caring for children with special needs.

(n) Provide \$1,000,000 of the general fund—federal appropriation to contract out to a non-profit organization that provides hometown and college mentoring services and programs for low-income youth for the purposes of encouraging long-term self-sufficiency and family formation.

(2) (~~(\$48,341,000)~~) \$54,623,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$48,341,000)~~) \$44,431,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for cash assistance and other services to recipients in the general assistance—unemployable program. Within these amounts, the department may expend funds for services that assist recipients to reduce their dependence on public assistance, provided that expenditures for these services and cash assistance do not exceed the funds provided.

(3) \$5,632,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$5,632,000)~~) \$4,032,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the food assistance program for legal immigrants. The level of benefits shall be equivalent to the benefits provided by the federal food stamp program.

(4) \$48,000 of the general fund—state appropriation for fiscal year 2002 is provided solely to implement chapter 111, Laws of 2001 (veterans/Philippines).

(5) The department shall apply the provisions of RCW 74.04.005(10) to simplify resource eligibility policy, make such policy consistent with other federal public assistance programs, and achieve the budgetary savings assumed in this section.

(6) It is the intent of the legislature that the department shall comply with federal requirements to maintain aggregate funding for supplemental security income (SSI) supplemental payments. Within the amount remaining in this section, SSI supplemental payments shall be used for current SSI recipients who have ineligible spouses.

*Sec. 207 was partially vetoed. See message at end of chapter.

Sec. 208. 2001 2nd sp.s. c 7 s 208 (uncodified) is amended to read as follows:
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
ALCOHOL AND SUBSTANCE ABUSE PROGRAM**

General Fund—State Appropriation (FY 2002) \$	(38,047,000)) <u>35,851,000</u>
General Fund—State Appropriation (FY 2003) \$	(38,938,000)) <u>37,022,000</u>
General Fund—Federal Appropriation \$	(91,695,000)) <u>91,549,000</u>
General Fund—Private/Local Appropriation \$	723,000
Public Safety and Education Account—State Appropriation \$	((13,733,000)) <u>13,427,000</u>
Violence Reduction and Drug Enforcement Account— State Appropriation \$	((52,510,000))

	<u>52,306,000</u>
TOTAL APPROPRIATION \$	((235,646,000))
	<u>230,878,000</u>

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

(1) (~~(\$1,610,000)~~) \$810,000 of the general fund—state appropriation for fiscal year 2002 and \$1,622,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for expansion of 35 drug and alcohol treatment beds for persons committed under RCW 70.96A.140. Patients meeting the commitment criteria of RCW 70.96A.140 but who voluntarily agree to treatment in lieu of commitment shall also be eligible for treatment in these additional treatment beds. The department shall develop specific placement criteria for these expanded treatment beds to ensure that this new treatment capacity is prioritized for persons incapacitated as a result of chemical dependency and who are also high utilizers of hospital services. These additional treatment beds shall be located in the eastern part of the state.

(2) (~~(\$2,800,000)~~) \$1,000,000 of the public safety and education account—state appropriation is provided solely for expansion of treatment for persons gravely disabled by abuse and addiction to alcohol and other drugs including methamphetamine.

(3) \$1,083,000 of the public safety and education account—state appropriation ~~((is))~~ and \$75,000 of the violence reduction and drug enforcement account—state appropriation are provided solely for adult and juvenile drug courts that have a net loss of federal grant funding in state fiscal year 2002 and state fiscal year 2003. This appropriation is intended to cover approximately one-half of lost federal funding. ~~((It is the intent of the legislature to provide state assistance to counties to cover a part of lost federal funding for drug courts for a maximum of three years.))~~

(4) \$1,993,000 of the public safety and education account—state appropriation and \$951,000 of the general fund—federal appropriation are provided solely for drug and alcohol treatment for SSI clients. The department shall continue research and post-program evaluation of these clients to further determine the post-treatment utilization of medical services and the service effectiveness of consolidation.

(5) \$500,000 of the violence reduction and drug enforcement account appropriation for fiscal year 2003 is provided solely for the department to provide treatment for pathological gambling or training for the treatment of pathological gambling under Second Substitute Senate Bill No. 6560 (shared game lottery). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(6) Within the amounts appropriated in this section, funding is provided to implement Second Substitute House Bill No. 2338 or Substitute Senate Bill No. 6361 (drug offender sentencing).

Sec. 209. 2001 2nd sp.s. c 7 s 209 (uncodified) is amended to read as follows:

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

General Fund—State Appropriation (FY 2002) \$	((1,028,885,000)) <u>1,081,150,000</u>
General Fund—State Appropriation (FY 2003) \$	((1,130,904,000)) <u>1,124,758,000</u>
General Fund—Federal Appropriation \$	((3,637,511,000)) <u>3,621,077,000</u>
General Fund—Private/Local Appropriation \$	((276,147,000)) <u>211,272,000</u>
Emergency Medical Services and Trauma Care Systems	
Trust Account—State Appropriation \$	9,200,000
Health Services Account—State Appropriation \$	((1,043,310,000)) <u>1,104,119,000</u>
TOTAL APPROPRIATION \$	((7,125,957,000)) <u>7,151,576,000</u>

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

(1) The department shall increase its efforts to restrain the growth of health care costs. The appropriations in this section anticipate that the department implements a combination of cost containment and utilization strategies sufficient to reduce general fund—state costs by approximately 3 percent below the level projected for the 2001-03 biennium in the March 2001 forecast. The department shall report to the fiscal committees of the legislature by October 1, 2001, on its specific plans and semiannual targets for accomplishing these savings. The department shall report again to the fiscal committees by March 1, 2002, and by September 1, 2002, on actual performance relative to the semiannual targets. If satisfactory progress is not being made to achieve the targeted savings, the reports shall include recommendations for additional or alternative measures to control costs.

(2) The department shall continue to extend medicaid eligibility to children through age 18 residing in households with incomes below 200 percent of the federal poverty level.

(3) In determining financial eligibility for medicaid-funded services, the department is authorized to disregard recoveries by Holocaust survivors of insurance proceeds or other assets, as defined in RCW 48.104.030.

(4) \$502,000 of the health services account appropriation, \$400,000 of the general fund—private/local appropriation, and \$1,676,000 of the general fund—federal appropriation are provided solely for implementation of Second Substitute House Bill No. 1058 (breast and cervical cancer treatment). If the bill is not enacted by June 30, 2001, or if private funding is not contributed equivalent to the general fund—private/local appropriation, the funds appropriated in this subsection shall lapse.

(5) \$620,000 of the health services account appropriation for fiscal year 2002, \$1,380,000 of the health services account appropriation for fiscal year 2003, and \$2,000,000 of the general fund—federal appropriation are provided solely for implementation of a "ticket to work" medicaid buy-in program for working persons with disabilities, operated in accordance with the following conditions:

(a) To be eligible, a working person with a disability must have total income which is less than 450 percent of poverty;

(b) Participants shall participate in the cost of the program by paying (i) a monthly enrollment fee equal to fifty percent of any unearned income in excess of the medicaid medically needy standard; and (ii) a monthly premium equal to 5 percent of all unearned income, plus 5 percent of all earned income after disregarding the first sixty-five dollars of monthly earnings, and half the remainder;

(c) The department shall establish more restrictive eligibility standards than specified in this subsection to the extent necessary to operate the program within appropriated funds;

(d) The department may require point-of-service copayments as appropriate, except that copayments shall not be so high as to discourage appropriate service utilization, particularly of prescription drugs needed for the treatment of psychiatric conditions; and

(e) The department shall establish systems for tracking and reporting enrollment and expenditures in this program, and the prior medical assistance eligibility status of new program enrollees. The department shall additionally survey the prior and current employment status and approximate hours worked of program enrollees, and report the results to the fiscal and health care committees of the legislature by January 15, 2003.

(6) From funds appropriated in this section, the department shall design, implement, and evaluate pilot projects to assist individuals with at least three different diseases to improve their health, while reducing total medical expenditures. The projects shall involve (a) identifying persons who are seriously or chronically ill due to a combination of medical, social, and functional problems; and (b) working with the individuals and their care providers to improve adherence to state-of-the-art treatment regimens. The department shall report to the health care and the fiscal committees of the legislature by January 1, 2002, on the particular disease states, intervention protocols, and delivery mechanisms it proposes to test.

(7) Sufficient funds are appropriated in this section for the department to continue full-scope dental coverage, vision coverage, and podiatry services for medicaid-eligible adults.

(8) The legislature reaffirms that it is in the state's interest for Harborview medical center to remain an economically viable component of the state's health care system.

(9) \$80,000 of the general fund—state appropriation for fiscal year 2002, \$80,000 of the general fund—state appropriation for fiscal year 2003, and \$160,000

of the general fund—federal appropriation are provided solely for the newborn referral program to provide access and outreach to reduce infant mortality.

(10) \$30,000 of the general fund—state appropriation for fiscal year 2002, \$31,000 of the general fund—state appropriation for fiscal year 2003, and \$62,000 of the general fund—federal appropriation are provided solely for implementation of Substitute Senate Bill No. 6020 (dental sealants). If Substitute Senate Bill No. 6020 is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(11) In accordance with RCW 74.46.625, (~~(\$376,318,000)~~) \$523,600,000 of the health services account appropriation (~~((for fiscal year 2002, \$144,896,000 of the health services account appropriation for fiscal year 2003, and \$542,089,000))~~) and \$530,585,000 of the general fund—federal appropriation are provided solely for supplemental payments to nursing homes operated by rural public hospital districts. The payments shall be conditioned upon (a) a contractual commitment by the association of public hospital districts and participating rural public hospital districts to make an intergovernmental transfer to the state treasurer, for deposit into the health services account, equal to at least 98 percent of the supplemental payments; and (b) a contractual commitment by the participating districts to not allow expenditures covered by the supplemental payments to be used for medicaid nursing home rate-setting. The participating districts shall retain no more than a total of \$20,000,000 for the 2001-03 biennium. If the medicare upper payment limit revenues referenced in this subsection are not received in an amount or within a time frame sufficient to support spending from the health services account, the governor shall take actions in accordance with RCW 43.88.110(8).

(12) (~~(\$38,690,000)~~) \$38,766,000 of the health services account appropriation for fiscal year 2002, (~~(\$40,189,000)~~) \$40,494,000 of the health services account appropriation for fiscal year 2003, and (~~(\$80,241,000)~~) \$79,839,000 of the general fund—federal appropriation are provided solely for additional disproportionate share and medicare upper payment limit payments to public hospital districts.

~~((a))~~ The payments shall be conditioned upon a contractual commitment by the participating public hospital districts to make an intergovernmental transfer to the health services account equal to at least 91 percent of the additional payments. At least 28 percent of the amounts retained by the participating hospital districts shall be allocated to the state's teaching hospitals.

~~((b) An additional 4.5 percent of the additional payments may be retained by the participating public hospital districts contingent upon the receipt of \$446,500,000 in newly identified proshare reimbursement from the federal government over the 2001-03 biennium. If the actual amount received is less than \$446,500,000, the amount retained pursuant to this subsection (12)(b) shall be prorated accordingly. The state teaching hospitals shall receive a distribution of the amount retained by the participating hospital districts in this subsection (12)(b) as allocated in (a) of this subsection:))~~

(13) \$412,000 of the general fund—state appropriation for fiscal year 2002, \$862,000 of the general fund—state appropriation for fiscal year 2003, and \$730,000 of the general fund—federal appropriation are provided solely for implementation of Substitute House Bill No. 1162 (small rural hospitals). If Substitute House Bill No. 1162 is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(14) The department may continue to use any federal money available to continue to provide medicaid matching funds for funds contributed by local governments for purposes of conducting eligibility outreach to children and underserved groups. The department shall ensure cooperation with the anticipated audit of the school districts' matchable expenditures for this program and advise the appropriate legislative fiscal committees of the findings.

(15) The department shall coordinate with the health care authority and with community and migrant health clinics to actively assist children and immigrant adults not eligible for medicaid to enroll in the basic health plan.

(16) \$8,500,000 of the general fund—state appropriation for fiscal year 2002, or so much thereof as may be necessary, is provided solely for settlement of *Providence St. Peter's Hospital et al. vs. Department of Social and Health Services*.

(17) In consultation and coordination with the department of health, the department shall establish mechanisms to assure that the AIDS insurance program operates within budgeted levels. Such mechanisms shall include a system under which the state's contribution to the cost of coverage is adjusted on a sliding-scale basis.

(18) The department shall implement an academic detailing program that educates prescribers on the availability of generic versions of off-patent brand drugs. To the extent the net cost of generics, after accounting for rebates, is less than the off-patent drug, generics will be substituted, with the prescriber's approval, consistent with criteria developed by the department in consultation with the state medical association and the state pharmacists association.

(19) Within available resources, the department shall design and initiate a general assistance medical care management project in two counties, one in eastern Washington and one in western Washington. In designing the project, the department shall consult with the mental health division, migrant and community health centers, and any other managed care provider that has the capacity to offer coordinated medical and mental health care. The projects shall be designed in such a way that a designated provider network is established for general assistance clients so that care management can be maximized. The department shall report on the design of the pilot project to the policy and fiscal committees of the legislature by October 15, 2002.

Sec. 210. 2001 2nd sp.s. c 7 s 210 (uncodified) is amended to read as follows:
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation (FY 2002) \$	((11,309,000))
	<u>11,135,000</u>
General Fund—State Appropriation (FY 2003) \$	((9,780,000))
	<u>9,385,000</u>
General Fund—Federal Appropriation \$	((83,738,000))
	<u>82,235,000</u>
General Fund—Private/Local Appropriation \$	360,000
TOTAL APPROPRIATION \$	((105,187,000))
	<u>103,115,000</u>

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

(1) The division of vocational rehabilitation shall negotiate cooperative interagency agreements with state and local organizations to improve and expand employment opportunities for people with severe disabilities.

(2) The department shall actively assist participants in the employment support services program to obtain other employment or training opportunities over the course of fiscal year 2003.

Sec. 211. 2001 2nd sp.s. c 7 s 211 (uncodified) is amended to read as follows:
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—
 ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

General Fund—State Appropriation (FY 2002) \$	((30,444,000))
	<u>30,419,000</u>
General Fund—State Appropriation (FY 2003) \$	((29,369,000))
	<u>22,419,000</u>
General Fund—Federal Appropriation \$	((50,562,000))
	<u>47,135,000</u>
General Fund—Private/Local Appropriation \$	810,000
TOTAL APPROPRIATION \$	((111,185,000))
	<u>100,783,000</u>

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

(1) By November 1, 2001, the secretary shall report to the fiscal committees of the legislature on the actions the secretary has taken, or proposes to take, within current funding levels to resolve the organizational problems identified in the department’s February 2001 report to the legislature on current systems for billing third-party payers for services delivered by the state psychiatric hospitals. The secretary is authorized to transfer funds from this section to the mental health program to the extent necessary to achieve the organizational improvements recommended in that report.

(2) By November 1, 2001, the department shall report to the fiscal committees of the legislature with the least costly plan for assuring that billing and accounting technologies in the state psychiatric hospitals adequately and efficiently comply

with standards set by third-party payers. The plan shall be developed with participation by and oversight from the office of financial management, the department's information systems services division, and the department of information services.

(3) The department shall reconstitute the payment integrity program to place greater emphasis upon the prevention of future billing errors, ensure billing and administrative errors are treated in a manner distinct from allegations of fraud and abuse, and shall rename the program. In keeping with this revised focus, the department shall also increase to one thousand dollars the cumulative total of apparent billing errors allowed before a provider is contacted for repayment.

(4) By September 1, 2001, the department shall report to the fiscal committees of the legislature results from the payment review program. The report shall include actual costs recovered and estimated costs avoided for fiscal year 2001 and the costs incurred by the department to administer the program. The report shall document criteria and methodology used for determining avoided costs. In addition, the department shall seek input from health care providers and consumer organizations on modifications to the program. The department shall provide annual updates to the report to the fiscal committees of the legislature by September 1st of each year for the preceding fiscal year.

(5) The department shall implement reductions in administrative expenditures assumed in these appropriations that achieve ongoing savings, reduce duplicative and redundant work processes, and, where possible, eliminate entire administrative functions and offices. The department may transfer amounts among sections and programs to achieve these savings provided that reductions in direct services to clients and recipients of the department shall not be counted as administrative reductions. The department shall report to the appropriate committees of the legislature a spending plan to achieve these reductions by July 1, 2002, and shall report actual achieved administrative savings and projected saving for the remainder of the biennium by December 1, 2002.

Sec. 212. 2001 2nd sp.s. c 7 s 213 (uncodified) is amended to read as follows:

FOR THE STATE HEALTH CARE AUTHORITY

General Fund—State Appropriation (FY 2002)	\$	6,655,000
((General Fund—State Appropriation (FY 2003)	\$	6,654,000))
State Health Care Authority Administrative		
Account—State Appropriation	\$	((20,091,000))
		<u>20,032,000</u>
Health Services Account—State Appropriation	\$	((499,148,000))
		<u>538,828,000</u>
General Fund—Federal Appropriation	\$	((3,611,000))
		<u>4,240,000</u>
<u>Medical Aid Account—State Appropriation</u>	<u>\$</u>	<u>45,000</u>
TOTAL APPROPRIATION	\$	((536,159,000))
		<u>569,800,000</u>

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

(1) \$6,551,000 of the general fund—state appropriation for fiscal year 2002 and \$6,550,000 of the ((general fund)) health services account— state appropriation for fiscal year 2003 are provided solely for health care services provided through local community clinics.

(2) Within funds appropriated in this section and sections 205 and 206 of this 2001 act, the health care authority shall continue to provide an enhanced basic health plan subsidy option for foster parents licensed under chapter 74.15 RCW and workers in state-funded home care programs. Under this enhanced subsidy option, foster parents and home care workers with family incomes below 200 percent of the federal poverty level shall be allowed to enroll in the basic health plan at a cost of ten dollars per covered worker per month.

(3) The health care authority shall require organizations and individuals which are paid to deliver basic health plan services and which choose to sponsor enrollment in the subsidized basic health plan to pay the following: (i) A minimum of fifteen dollars per enrollee per month for persons below 100 percent of the federal poverty level; and (ii) a minimum of twenty dollars per enrollee per month for persons whose family income is 100 percent to 125 percent of the federal poverty level.

(4) The health care authority shall solicit information from the United States office of personnel management, health plans, and other relevant sources, regarding the cost of implementation of mental health parity by the federal employees health benefits program in 2001. A progress report shall be provided to the senate and house of representatives fiscal committees by July 1, 2002, and a final report shall be provided to the legislature by November 15, 2002, on the study findings.

(5) The administrator shall take at least the following actions to assure that persons participating in the basic health plan are eligible for the level of assistance they receive: (a) Require submission of income tax returns and recent pay history from all applicants; (b) check employment security payroll records at least once every twelve months on all enrollees; (c) require enrollees whose income as indicated by payroll records exceeds that upon which their subsidy is based to document their current income as a condition of continued eligibility; (d) require enrollees for whom employment security payroll records cannot be obtained to document their current income at least once every six months; and (e) pursue repayment and civil penalties from persons who have received excessive subsidies, as provided in RCW 70.47.060(9).

(6) The health services account revenues generated by Initiative Measure No. 773 which are appropriated in this section shall be used to subsidize enrollments in excess of the 125,000 per month base enrollment level as follows:

(a) \$20,000,000 is provided solely for enrollment in the subsidized basic health plan of persons who, solely by reason of their immigration status, are not

eligible for medicaid coverage of their nonemergent medical care needs. From July 2002 to October 2002, opportunities for subsidized coverage will be offered on a phased-in basis to this group of persons. Any entity or organization may sponsor subsidized basic health plan enrollment.

(b) Beginning January 1, 2003, subsidized basic health plan coverage shall be offered on a phased-in basis to an additional 20,000 enrollees.

(7) \$3,000,000 of the health services account—state appropriation for fiscal year 2003 is provided solely to increase the number of persons not eligible for medicaid receiving dental care from nonprofit community clinics, and for interpreter services to support dental and medical services for persons for whom interpreters are not available from any other source.

(8) The health care authority shall report to the fiscal committees of the legislature on the costs, benefits, and feasibility of implementing a system no later than January 1, 2004, under which the state’s contribution to the cost of employee medical coverage would be graduated according to employee salary. Under the graduated system, employees in higher salary ranges would pay a larger share of the cost of their medical coverage, while those paid lower salaries would pay a smaller percentage of their premium. The report shall be prepared in consultation with the department of personnel and the state-supported colleges and universities, and shall be submitted to the fiscal committees no later than December 1, 2002.

(9) In consultation with the department of personnel and with the state-supported colleges and universities, the health care authority shall report to the fiscal committees of the legislature by October 1, 2002, a plan for expanding the availability and use of flexible spending account plans under which employees may set aside pretax earnings to cover their out-of-pocket medical costs. The authority is authorized to proceed with implementation of such a plan to the extent it can be accomplished within existing state funding levels.

(10) \$685,000 of the health services account appropriation, \$629,000 of the general fund—federal appropriation, and the medical aid account appropriation are provided solely for implementation of Substitute Senate Bill No. 6368 (prescription drug utilization and education). If the bill is not enacted by June 30, 2002, these amounts shall lapse.

Sec. 213. 2001 2nd sp.s. c 7 s 214 (uncodified) is amended to read as follows:
FOR THE HUMAN RIGHTS COMMISSION

General Fund—State Appropriation (FY 2002) \$	2,688,000
General Fund—State Appropriation (FY 2003) \$	((2,700,000))
	<u>2,619,000</u>
General Fund—Federal Appropriation \$	1,544,000
General Fund—Private/Local Appropriation \$	100,000
TOTAL APPROPRIATION \$	((7,032,000))
	<u>6,951,000</u>

Sec. 214. 2001 2nd sp.s. c 7 s 215 (uncodified) is amended to read as follows:
FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS

Worker and Community Right-to-Know Account—State		
Appropriation	\$	20,000
Accident Account—State Appropriation	\$	((14,692,000))
		<u>14,798,000</u>
Medical Aid Account—State Appropriation	\$	((14,694,000))
		<u>14,801,000</u>
TOTAL APPROPRIATION	\$	((29,406,000))
		<u>29,619,000</u>

Sec. 215. 2001 2nd sp.s. c 7 s 216 (uncodified) is amended to read as follows:

FOR THE CRIMINAL JUSTICE TRAINING COMMISSION

Municipal Criminal Justice Assistance Account—		
Local Appropriation	\$	460,000
Death Investigations Account—State		
Appropriation	\$	148,000
Public Safety and Education Account—State		
Appropriation	\$	((18,439,000))
		<u>18,148,000</u>
TOTAL APPROPRIATION	\$	((19,047,000))
		<u>18,756,000</u>

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

(1) \$124,000 of the public safety and education account appropriation is provided solely to allow the Washington association of sheriffs and police chiefs to increase the technical and training support provided to the local criminal justice agencies on the new incident-based reporting system and the national incident-based reporting system.

(2) \$136,000 of the public safety and education account appropriation is provided solely to allow the Washington association of prosecuting attorneys to enhance the training provided to criminal justice personnel.

(3) ((~~\$22,000~~)) \$19,000 of the public safety and education account appropriation is provided solely to increase payment rates for the criminal justice training commission’s contracted food service provider.

(4) ((~~\$31,000~~)) \$27,000 of the public safety and education account appropriation is provided solely to increase payment rates for the criminal justice training commission’s contract with the Washington association of sheriffs and police chiefs.

(5) \$65,000 of the public safety and education account appropriation is provided solely for regionalized training programs for school district and local law enforcement officials on school safety issues.

(6) ((~~\$233,000 of the public safety and education account appropriation is provided solely for training and equipping local law enforcement officers to respond to methamphetamine crime.~~))

— (7) ~~\$374,000 of the public safety and education account appropriation is provided solely for the implementation of House Bill No. 1062 (certification of peace officers). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.~~

— (8)) \$450,000 of the public safety and education account appropriation is provided solely for grants to be distributed by the Washington association of sheriffs and police chiefs for electronic mapping of school facilities.

Sec. 216. 2001 2nd sp.s. c 7 s 217 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF LABOR AND INDUSTRIES

General Fund—State Appropriation (FY 2002) \$	(7,738,000) <u>5,577,000</u>
General Fund—State Appropriation (FY 2003) \$	(7,682,000) <u>5,517,000</u>
General Fund—Federal Appropriation \$	1,250,000
Public Safety and Education Account—State Appropriation \$	(19,862,000) <u>18,292,000</u>
Public Safety and Education Account—Federal Appropriation \$	6,950,000
Public Safety and Education Account—Private/Local Appropriation \$	(4,200,000) <u>5,373,000</u>
Asbestos Account—State Appropriation \$	688,000
Electrical License Account—State Appropriation \$	28,412,000
Farm Labor Revolving Account—Private/Local Appropriation \$	28,000
Worker and Community Right-to-Know Account—State Appropriation \$	2,281,000
Public Works Administration Account—State Appropriation \$	2,856,000
Accident Account—State Appropriation \$	(179,186,000) <u>184,219,000</u>
Accident Account—Federal Appropriation \$	11,568,000
Medical Aid Account—State Appropriation \$	(176,715,000) <u>183,666,000</u>
Medical Aid Account—Federal Appropriation \$	2,438,000
Plumbing Certificate Account—State Appropriation \$	(1,015,000) <u>1,111,000</u>
Pressure Systems Safety Account—State Appropriation \$	(2,274,000) <u>2,525,000</u>

TOTAL APPROPRIATION \$	((455,143,000))
	<u>462,751,000</u>

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

(1) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education account funds appropriated in this section. In the event that cost containment measures are necessary, the department may (a) institute copayments for services; (b) develop preferred provider contracts; or (c) other cost containment measures. Cost containment measures shall not include holding invoices received in one fiscal period for payment from appropriations in subsequent fiscal periods. No more than \$5,248,000 of the public safety and education account appropriation shall be expended for department administration of the crime victims compensation program.

(2) ~~((\$1,438,000 of the accident account—state appropriation and \$1,438,000 of the medical aid account—state appropriation are provided for the one-time cost of implementing a recent state supreme court ruling regarding the calculation of workers’ compensation benefits. This decision significantly increases the complexity of calculating benefits and therefore increases the administrative and legal costs of the workers’ compensation program. The department shall develop and report to appropriate committees of the legislature proposed statutory language that provides greater certainty and simplicity in the calculation of benefits. The report shall be submitted by October 1, 2001.~~

~~(3))~~ It is the intent of the legislature that elevator inspection fees shall fully cover the cost of the elevator inspection program. Pursuant to RCW 43.135.055, during the 2001-03 fiscal biennium the department may increase fees in excess of the fiscal growth factor, if the increases are necessary to fully fund the cost of the elevator inspection program.

(3) \$300,000 of the medical aid account—state appropriation is provided for a second center of occupational health and education to be located on the east side of the state. These centers train physicians on best practices for occupational medicine and work with labor and business to improve the quality and outcomes of medical care provided to injured workers.

Sec. 217. 2001 2nd sp.s. c 7 s 218 (uncodified) is amended to read as follows:
FOR THE INDETERMINATE SENTENCE REVIEW BOARD

General Fund—State Appropriation (FY 2002) \$	999,000
General Fund—State Appropriation (FY 2003) \$	((999,000))
	<u>969,000</u>
TOTAL APPROPRIATION \$	((1,998,000))
	<u>1,968,000</u>

Sec. 218. 2001 2nd sp.s. c 7 s 219 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF VETERANS AFFAIRS

(1) HEADQUARTERS

General Fund—State Appropriation (FY 2002) \$	(1,529,000)
	<u>1,577,000</u>
General Fund—State Appropriation (FY 2003) \$	1,533,000
Charitable, Educational, Penal, and Reformatory Institutions Account—State Appropriation \$	7,000
TOTAL APPROPRIATION \$	(3,069,000)
	<u>3,117,000</u>

(2) FIELD SERVICES

General Fund—State Appropriation (FY 2002) \$	2,619,000
General Fund—State Appropriation (FY 2003) \$	(2,643,000)
	<u>2,580,000</u>
General Fund—Federal Appropriation \$	(155,000)
	<u>310,000</u>
General Fund—Private/Local Appropriation \$	1,663,000
TOTAL APPROPRIATION \$	(7,080,000)
	<u>7,172,000</u>

(3) INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2002) \$	(6,832,000)
	<u>5,765,000</u>
General Fund—State Appropriation (FY 2003) \$	(4,600,000)
	<u>5,516,000</u>
General Fund—Federal Appropriation \$	(28,699,000)
	<u>27,437,000</u>
General Fund—Private/Local Appropriation \$	(25,614,000)
	<u>22,828,000</u>
TOTAL APPROPRIATION \$	(65,745,000)
	<u>61,546,000</u>

The appropriations in this subsection are subject to the following terms and conditions: (~~\$3,664,000~~) \$2,886,000 of the general fund—federal appropriation and (~~\$7,377,000~~) \$5,639,000 of the general fund—local appropriation are provided solely for the department to acquire, establish, and operate a nursing facility dedicated to serving men and women from Washington who have served in the nation’s armed forces.

NEW SECTION. Sec. 219. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE HOME CARE QUALITY AUTHORITY

General Fund—State Appropriation (FY 2003) \$	152,000
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The appropriation in this section is subject to the following conditions and limitations: The general fund—state appropriation for fiscal year 2003 is provided

for start-up costs of the home care quality authority, a new state agency established by the enactment of Initiative Measure No. 775.

Sec. 220. 2001 2nd sp.s. c 7 s 220 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF HEALTH

General Fund—State Appropriation (FY 2002) \$	((65,308,000))
	<u>57,337,000</u>
General Fund—State Appropriation (FY 2003) \$	((66,941,000))
	<u>54,940,000</u>
Health Services Account—State Appropriation \$	((24,186,000))
	<u>33,520,000</u>
General Fund—Federal Appropriation \$	((276,840,000))
	<u>297,352,000</u>
General Fund—Private/Local Appropriation \$	((81,526,000))
	<u>82,912,000</u>
Hospital Commission Account—State Appropriation \$	((1,718,000))
	<u>2,305,000</u>
Health Professions Account—State Appropriation \$	((38,456,000))
	<u>39,374,000</u>
Emergency Medical Services and Trauma Care Systems Trust Account—State Appropriation \$	14,858,000
Safe Drinking Water Account—State Appropriation \$	((2,701,000))
	<u>2,689,000</u>
Drinking Water Assistance Account—Federal Appropriation \$	((13,400,000))
	<u>13,376,000</u>
Waterworks Operator Certification—State Appropriation \$	622,000
<u>Salmon Recovery Account—State Appropriation</u> . . \$	<u>182,000</u>
Water Quality Account—State Appropriation \$	((3,328,000))
	<u>3,304,000</u>
Accident Account—State Appropriation \$	257,000
Medical Aid Account—State Appropriation \$	45,000
State Toxics Control Account—State Appropriation \$	((2,817,000))
	<u>2,809,000</u>
Medical Test Site Licensure Account—State Appropriation \$	((1,369,000))
	<u>1,801,000</u>
Youth Tobacco Prevention Account—State Appropriation \$	1,797,000

Tobacco Prevention and Control Account—State

Appropriation	\$	((34,992,000)) <u>43,737,000</u>
TOTAL APPROPRIATION	\$	((631,161,000)) <u>653,217,000</u>

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

(1) The department or any successor agency is authorized to raise existing fees charged to the drinking water operator certification, newborn screening, radioactive materials, x-ray compliance, drinking water plan review, midwifery, hearing and speech, veterinarians, psychologists, pharmacists, hospitals, podiatrists, ~~((and))~~ home health and home care, transient accommodations licensing, adult residential rehabilitation facilities licensing, state institution licensing, medical test site licensing, alcoholism treatment facilities licensing, certificate of need, and food handlers programs, in excess of the fiscal growth factor established by Initiative Measure No. 601, if necessary, to meet the actual costs of conducting business and the appropriation levels in this section.

(2) ~~\$339,000~~ of the general fund—state appropriation for fiscal year 2002 ~~((and \$339,000))~~, \$157,000 of the general fund—state appropriation for fiscal year 2003, and the salmon recovery account appropriation are provided solely for technical assistance to local governments and special districts on water conservation and reuse.

(3) \$1,675,000 of the general fund—state fiscal year 2002 appropriation and \$1,676,000 of the general fund—state fiscal year 2003 appropriation are provided solely for the implementation of the Puget Sound water work plan and agency action items, DOH-01, DOH-02, DOH-03, and DOH-04.

(4) The department of health shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law. The department may seek, receive, and spend, under RCW 43.79.260 through 43.79.282, federal moneys not anticipated in this act as long as the federal funding does not require expenditure of state moneys for the program in excess of amounts anticipated in this act. If the department receives unanticipated unrestricted federal moneys, those moneys shall be spent for services authorized in this act or in any other legislation that provides appropriation authority, and an equal amount of appropriated state moneys shall lapse. Upon the lapsing of any moneys under this subsection, the office of financial management shall notify the legislative fiscal committees. As used in this subsection, "unrestricted federal moneys" includes block grants and other funds that federal law does not require to be spent on specifically defined projects or matched on a formula basis by state funds.

(5) ~~((\$5,779,000))~~ \$19,778,000 of the health services account—state appropriation ~~((for fiscal year 2002 and \$4,665,000 of the health services account—state appropriation for fiscal year 2003 are))~~ is provided solely for ~~((purchase and~~

distribution of the pneumococcal conjugate vaccine as part of) the state's program of universal access to essential childhood vaccines. The department shall utilize all available federal funding before expenditure of these funds.

(6) \$85,000 of the general fund—state appropriation for fiscal year 2002 and \$65,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Substitute House Bill No. 1365 (infant and child products). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(7) (~~(\$58,000 of the general fund—state appropriation for fiscal year 2002 and \$25,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Second Substitute House Bill No. 1590 (breastfeeding). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse:~~

—(8)) From funds appropriated in this section, the state board of health shall convene a broadly-based task force to review the available information on the potential risks and benefits to public and personal health and safety, and to individual privacy, of emerging technologies involving human deoxyribonucleic acid (DNA). The board may reimburse task force members for travel expenses according to RCW 43.03.220. The task force shall consider information provided to it by interested persons on: (a) The incidence of discriminatory actions based upon genetic information; (b) strategies to safeguard civil rights and privacy related to genetic information; (c) remedies to compensate individuals for inappropriate use of their genetic information; and (d) incentives for further research and development on the use of DNA to promote public health, safety, and welfare. The task force shall report on its findings and any recommendations to appropriate committees of the legislature by October 1, 2002.

((~~9~~)) (8) \$533,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$1,067,000)~~) \$847,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for performance-based contracts with local jurisdictions to assure the safety of drinking water provided by small "group B" water systems.

(9) By October 1, 2002, the department shall establish mechanisms to assure that the HIV early intervention services program operates within appropriated levels. This shall include a system under which the state's contribution to the cost of care is adjusted on a sliding-scale basis.

(10) By December 1, 2002, the department shall report to appropriate committees of the legislature with a feasibility analysis of implementing an electronic filing system for death certificates. The study shall be conducted in consultation and cooperation with local and state registrars, funeral directors, and physicians, and shall include an analysis of applying an additional fee to death certificates to cover the cost of developing and operating the electronic system.

*Sec. 221. 2001 2nd sp.s. c 7 s 221 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF CORRECTIONS

The appropriations to the department of corrections in this act shall be expended for the programs and in the amounts specified herein. However, after May 1, 2002, after approval by the director of financial management and unless specifically prohibited by this act, the department may transfer general fund—state appropriations for fiscal year 2002 between programs. The director of financial management shall notify the appropriate fiscal committees of the senate and house of representatives in writing prior to approving any deviations from appropriation levels.

(1) ADMINISTRATION AND SUPPORT SERVICES

General Fund—State Appropriation (FY 2002) \$	(36,156,000)
	<u>36,786,000</u>
General Fund—State Appropriation (FY 2003) \$	(36,365,000)
	<u>36,434,000</u>
Public Safety and Education Account—State	
Appropriation \$	1,576,000
Violence Reduction and Drug Enforcement	
Account Appropriation \$	3,254,000
TOTAL APPROPRIATION \$	(77,351,000)
	<u>78,050,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: \$4,623,000 of the general fund—state appropriation for fiscal year 2002, \$4,623,000 of the general fund—state appropriation for fiscal year 2003, and \$3,254,000 of the violence reduction and drug enforcement account appropriation are provided solely for the replacement of the department’s offender-based tracking system. This amount is conditioned on the department satisfying the requirements of section 902 of this act. The department shall prepare an assessment of the fiscal impact of any changes to the replacement project. The assessment shall:

- (a) Include a description of any changes to the replacement project;
- (b) Provide the estimated costs for each component in the 2001-03 and subsequent biennia;
- (c) Include a schedule that provides the time estimated to complete changes to each component of the replacement project; and
- (d) Be provided to the office of financial management, the department of information services, the information services board, and the staff of the fiscal committees of the senate and the house of representatives no later than November 1, 2002.

(2) CORRECTIONAL OPERATIONS

General Fund—State Appropriation (FY 2002) \$	(397,231,000)
	<u>404,390,000</u>
General Fund—State Appropriation (FY 2003) \$	(407,078,000)
	<u>412,788,000</u>

General Fund—Federal Appropriation \$	((12,096,000))
	<u>9,142,000</u>
Violence Reduction and Drug Enforcement Account— State Appropriation \$	((1,614,000))
	<u>1,596,000</u>
Public Health Services Account Appropriation \$	1,453,000
TOTAL APPROPRIATION \$	((819,472,000))
	<u>829,369,000</u>

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

(a) The department may expend funds generated by contractual agreements entered into for mitigation of severe overcrowding in local jails. Any funds generated in excess of actual costs shall be deposited in the state general fund. Expenditures shall not exceed revenue generated by such agreements and shall be treated as recovery of costs.

(b) The department shall provide funding for the pet partnership program at the Washington corrections center for women at a level at least equal to that provided in the 1995-97 biennium.

(c) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(d) \$553,000 of the general fund—state appropriation for fiscal year 2002 and ((\$1,171,000)) \$956,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase payment rates for contracted education providers, contracted chemical dependency providers, and contracted work release facilities.

(e) During the 2001-03 biennium, when contracts are established or renewed for offender pay phone and other telephone services provided to inmates, the department shall select the contractor or contractors primarily based on the following factors: (i) The lowest rate charged to both the inmate and the person paying for the telephone call; and (ii) the lowest commission rates paid to the department, while providing reasonable compensation to cover the costs of the department to provide the telephone services to inmates and provide sufficient revenues for the activities funded from the institutional welfare betterment account as of January 1, 2000.

(f) For the acquisition of properties and facilities, the department of corrections is authorized to enter into financial contracts, paid for from operating resources, for the purposes indicated and in not more than the principal amounts indicated, plus financing expenses and required reserves pursuant to chapter 39.94 RCW. This authority applies to the following: Lease-develop with the option to purchase or lease-purchase approximately 50 work release beds in facilities throughout the state for \$3,500,000.

(g) \$22,000 of the general fund—state appropriation for fiscal year 2002 and \$76,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Second Substitute Senate Bill No. 6151 (high risk sex offenders in the civil commitment and criminal justice systems). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(h) The department may acquire a ferry for no more than \$1,000,000 from Washington state ferries. Funds expended for this purpose will be recovered from the sale of marine assets.

(i) \$53,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the implementation of Engrossed Substitute Senate Bill No. 6490 (motor vehicle theft). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(j) Within the amounts appropriated in this section, funding is provided for the initial implementation of a medical algorithm practice program within the department’s facilities. The program shall be designed to achieve clinical efficacy and costs efficiency in the utilization of psychiatric drugs.

(3) COMMUNITY SUPERVISION

General Fund—State Appropriation (FY 2002)	\$	((61,427,000))
		<u>68,097,000</u>
General Fund—State Appropriation (FY 2003)	\$	((62,934,000))
		<u>75,720,000</u>
General Fund—Federal Appropriation	\$	((1,125,000))
		<u>870,000</u>
Public Safety and Education		
Account—State Appropriation	\$	((15,841,000))
		<u>15,493,000</u>
TOTAL APPROPRIATION	\$	((141,327,000))
		<u>160,180,000</u>

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

(a) The department of corrections shall accomplish personnel reductions with the least possible impact on correctional custody staff, community custody staff, and correctional industries. For the purposes of this subsection, correctional custody staff means employees responsible for the direct supervision of offenders.

(b) \$75,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the department of corrections to contract with the institute for public policy for responsibilities assigned in chapter 196, Laws of 1999 (offender accountability act) and sections 7 through 12 of chapter 197, Laws of 1999 (drug offender sentencing).

(c) \$16,000 of the general fund—state appropriation for fiscal year 2002 and ~~((34,000))~~ \$28,000 of the general fund—state appropriation for fiscal year 2003

are provided solely to increase payment rates for contracted chemical dependency providers.

(d) \$30,000 of the general fund—state appropriation for fiscal year 2002 and \$30,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of Substitute Senate Bill No. 5118 (interstate compact for adult offender supervision). If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall lapse.

(4) CORRECTIONAL INDUSTRIES

General Fund—State Appropriation (FY 2002)	\$	631,000
General Fund—State Appropriation (FY 2003)	\$	629,000
TOTAL APPROPRIATION	\$	1,260,000

The appropriations in this subsection are subject to the following conditions and limitations: \$110,000 of the general fund—state appropriation for fiscal year 2002 and \$110,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for transfer to the jail industries board. The board shall use the amounts provided only for administrative expenses, equipment purchases, and technical assistance associated with advising cities and counties in developing, promoting, and implementing consistent, safe, and efficient offender work programs.

(5) INTERAGENCY PAYMENTS

General Fund—State Appropriation (FY 2002)	\$	18,568,000
General Fund—State Appropriation (FY 2003)	\$	18,569,000
TOTAL APPROPRIATION	\$	37,137,000

*Sec. 221 was partially vetoed. See message at end of chapter.

Sec. 222. 2001 2nd sp.s. c 7 s 222 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF SERVICES FOR THE BLIND

General Fund—State Appropriation (FY 2002)	\$	((1,693,000))
		<u>1,652,000</u>
General Fund—State Appropriation (FY 2003)	\$	((1,628,000))
		<u>1,588,000</u>
General Fund—Federal Appropriation	\$	((1,140,000))
		<u>12,643,000</u>
General Fund—Private/Local Appropriation	\$	80,000
TOTAL APPROPRIATION	\$	((14,541,000))
		<u>15,963,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$50,000 of the general fund—state appropriation for fiscal year 2002 and \$50,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase state assistance for a comprehensive program of training and support services for persons who are both deaf and blind.

Sec. 223. 2001 2nd sp.s. c 7 s 223 (uncodified) is amended to read as follows:

FOR THE SENTENCING GUIDELINES COMMISSION

General Fund—State Appropriation (FY 2002) \$	936,000
General Fund—State Appropriation (FY 2003) \$	((857,000))
	<u>832,000</u>
TOTAL APPROPRIATION \$	((1,793,000))
	<u>1,768,000</u>

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

\$78,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the sentencing guidelines commission to conduct a comprehensive review and evaluation of state sentencing policy. The review and evaluation shall include an analysis of whether current sentencing ranges and standards, as well as existing mandatory minimum sentences, existing sentence enhancements, and special sentencing alternatives, are consistent with the purposes of the sentencing reform act as set out in RCW 9.94A.010, including the intent of the legislature to emphasize confinement for the violent offender and alternatives to confinement for the nonviolent offender. The review and evaluation shall also examine whether current sentencing ranges and standards are consistent with existing corrections capacity.

The review and evaluation shall consider studies on the cost-effectiveness of sentencing alternatives, as well as the fiscal impact of sentencing policies on state and local government. In conducting the review and evaluation, the commission shall consult with the superior court judges’ association, the Washington association of prosecuting attorneys, the Washington defenders’ association, the Washington association of criminal defense lawyers, the Washington association of sheriffs and police chiefs, organizations representing crime victims, and other organizations and individuals with expertise and interest in sentencing policy.

Not later than December 1, 2001, the commission shall present to the appropriate standing committees of the legislature the report of its comprehensive review and evaluation, together with any recommendations for revisions and modifications to state sentencing policy, including sentencing ranges and standards, mandatory minimum sentences, and sentence enhancements. If implementation of the recommendations of the commission would result in exceeding the capacity of correctional facilities, the commission shall at the same time present to the legislature a list of revised standard sentence ranges which are consistent with currently authorized rated and operational corrections capacity, and consistent with the purposes of the sentencing reform act.

Sec. 224. 2001 2nd sp.s. c 7 s 224 (uncodified) is amended to read as follows:

FOR THE EMPLOYMENT SECURITY DEPARTMENT

General Fund—Federal Appropriation \$	180,628,000
General Fund—Private/Local Appropriation \$	30,119,000
Unemployment Compensation Administration Account—	
Federal Appropriation \$	((181,677,000))
	<u>194,167,000</u>

Administrative Contingency Account—State		
Appropriation	\$	((13,914,000))
		<u>15,514,000</u>
Employment Service Administrative Account—State		
Appropriation	\$	20,001,000
TOTAL APPROPRIATION	\$	((426,339,000))
		<u>440,429,000</u>

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

(1) \$156,000 of the unemployment compensation administration account is provided solely for the implementation of Substitute House Bill No. 2355 (unemployment insurance). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

(2) Up to \$1,600,000 of the administrative contingency account—state appropriation is provided solely for administrative costs related to the implementation of Engrossed House Bill No. 2901 (unemployment insurance). If the bill is not enacted by June 30, 2002, the amount provided in this subsection shall lapse.

**PART III
NATURAL RESOURCES**

Sec. 301. 2001 2nd sp.s. c 7 s 301 (uncodified) is amended to read as follows:

FOR THE COLUMBIA RIVER GORGE COMMISSION

General Fund—State Appropriation (FY 2002)	\$	398,000
General Fund—State Appropriation (FY 2003)	\$	((391,000))
		<u>379,000</u>
General Fund—Private/Local Appropriation	\$	749,000
TOTAL APPROPRIATION	\$	((1,538,000))
		<u>1,526,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$40,000 of the general fund—state appropriation for fiscal year 2002 and \$40,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to implement the scenic area management plan for Klickitat county. If Klickitat county adopts an ordinance to implement the scenic area management plan in accordance with the national scenic area act, P.L. 99-663, then the amounts provided in this subsection shall be provided as a grant to Klickitat county to implement its responsibilities under the act.

Sec. 302. 2001 2nd sp.s. c 7 s 302 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF ECOLOGY

General Fund—State Appropriation (FY 2002)	\$	((46,633,000))
		<u>39,404,000</u>
General Fund—State Appropriation (FY 2003)	\$	((44,481,000))

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	<u>34,283,000</u>
General Fund—Federal Appropriation \$	56,805,000
General Fund—Private/Local Appropriation \$	4,351,000
Special Grass Seed Burning Research Account— State Appropriation \$	14,000
Reclamation Revolving Account—State Appropriation \$	((1,810,000))
	<u>1,935,000</u>
Flood Control Assistance Account— State Appropriation \$	4,098,000
State Emergency Water Projects Revolving Account— State Appropriation \$	878,000
Waste Reduction/Recycling/Litter Control Account— State Appropriation \$	((13,537,000))
	<u>14,287,000</u>
State Drought Preparedness Account—State Appropriation \$	((5,325,000))
	<u>2,575,000</u>
<u>Salmon Recovery Account—State Appropriation . . \$</u>	<u>250,000</u>
State and Local Improvements Revolving Account (Water Supply Facilities)—State Appropriation \$	587,000
Water Quality Account—State Appropriation \$	((12,481,000))
	<u>22,985,000</u>
Wood Stove Education and Enforcement Account— State Appropriation \$	353,000
Worker and Community Right-to-Know Account— State Appropriation \$	3,288,000
State Toxics Control Account—State Appropriation \$	((68,931,000))
	<u>70,001,000</u>
State Toxics Control Account—Private/Local Appropriation \$	350,000
Local Toxics Control Account—State Appropriation \$	4,751,000
Water Quality Permit Account—State Appropriation \$	((23,827,000))
	<u>24,210,000</u>
Underground Storage Tank Account—State Appropriation \$	2,682,000
Environmental Excellence Account—State Appropriation \$	504,000
Biosolids Permit Account—State Appropriation . . . \$	((589,000))

		<u>764,000</u>
Hazardous Waste Assistance Account—State		
Appropriation	\$	4,308,000
Air Pollution Control Account—State		
Appropriation	\$	((1,066,000))
		<u>1,366,000</u>
Oil Spill Prevention Account—State		
Appropriation	\$	7,921,000
Air Operating Permit Account—State		
Appropriation	\$	3,608,000
Freshwater Aquatic Weeds Account—State		
Appropriation	\$	1,898,000
Oil Spill Response Account—State		
Appropriation	\$	7,078,000
Metals Mining Account—State Appropriation	\$	5,000
Water Pollution Control Revolving Account—		
State Appropriation	\$	((467,000))
		<u>536,000</u>
Water Pollution Control Revolving Account—		
Federal Appropriation	\$	((2,316,000))
		<u>2,802,000</u>
TOTAL APPROPRIATION	\$	((324,942,000))
		<u>318,877,000</u>

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

(1) \$3,874,000 of the general fund—state appropriation for fiscal year 2002, \$3,874,000 of the general fund—state appropriation for fiscal year 2003, \$394,000 of the general fund—federal appropriation, \$2,070,000 of the oil spill prevention account—state appropriation, and \$3,686,000 of the water quality permit account—state appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DOE-01, DOE-02, DOE-03, DOE-05, DOE-06, DOE-07, DOE-08, and DOE-09.

(2) \$500,000 of the state toxics control account appropriation is provided for an assessment of the financial assurance requirements of hazardous waste management facilities. By September 30, 2002, the department shall provide to the governor and appropriate committees of the legislature a report that: (a) Evaluates current statutes and regulations governing hazardous waste management facilities; (b) analyzes and makes recommendations for improving financial assurance regulatory control; and (c) makes recommendations for funding financial assurance regulatory control of hazardous waste management facilities.

(3) ~~(((\$250,000 of the general fund—state appropriation for fiscal year 2002, \$250,000 of the general fund—state appropriation for fiscal year 2003, \$564,000))~~ \$814,000 of the state drought preparedness account—state appropriation, ~~((and))~~

\$549,000 of the water quality account—state appropriation, and \$250,000 of the salmon recovery account—state appropriation are provided solely for enhanced streamflow monitoring in critical salmon recovery basins. \$640,000 of this amount is provided solely to implement the Puget Sound work plan and agency action item DOE-01.

(4) \$1,000,000 of the state toxics control account appropriation in this section is provided solely for the department to work in cooperation with local jurisdictions to address emerging storm water management requirements. This work shall include developing a storm water manual for eastern Washington, technical assistance to local jurisdictions, and increased implementation of the department's existing storm water program. \$200,000 of this amount is provided solely for implementation of the Puget Sound work plan and agency action item DOE-06.

(5) \$383,000 of the general fund—state appropriation for fiscal year 2002 and \$383,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for water conservation plan review, technical assistance, and project review for water conservation and reuse projects. By December 1, 2003, the department in cooperation with the department of health shall report to the governor and appropriate committees of the legislature on the activities and achievements related to water conservation and reuse during the past two biennia. The report shall include an overview of technical assistance provided, reuse project development activities, and water conservation achievements.

(6) \$3,424,000 of the state toxics control account appropriation is provided solely for methamphetamine lab clean up activities.

(7)(a) \$800,000 of the state toxics control account appropriation is provided solely to implement the department's persistent, bioaccumulative toxic chemical strategy. (~~(\$54,000 of this amount shall be allocated to the department of health to assist with this effort.)~~)

(b) In developing its persistent bioaccumulative toxic chemical strategy, the department must:

(i) First develop a planned strategy for the reduction of mercury from the environment. This strategy will be known as the mercury chemical action plan. The development of the mercury chemical action plan will be a model for developing all future chemical action plans;

(ii) Develop a mercury chemical action plan that includes, but is not limited to: (A) Identifying current mercury uses in Washington; (B) analyzing current state and federal laws, regulations, rules, and voluntary measures that can be used to reduce or eliminate mercury; (C) identifying mercury reduction and elimination options; and (D) implementing actions to reduce or eliminate mercury uses and releases;

(iii) Involve an advisory committee of up to twelve members composed of adequate and balanced representation of local government, business, agriculture, and environmental, public health, and community groups in the development of the mercury chemical action plan. In addition, the department must invite and strongly

encourage any interested tribes or federal agencies to participate in the advisory committee process. The advisory committee must be involved in the development of the mercury chemical action plan. All information that will serve as the basis for any decisions in the mercury chemical action plan's development must be available to the advisory committee members. The advisory committee has sixty days to provide input to the department on the elements of the mercury chemical action plan. The comments and suggestions made by the advisory committee must be considered by the department; however, consensus of the advisory committee is not necessary for the department to move forward in the development of the mercury chemical action plan. All meetings of the advisory committee are subject to the provisions of chapter 42.30 RCW. The advisory committee for the mercury chemical action plan must be established by April 15, 2002;

(iv) By August 31, 2002, develop and issue a draft mercury chemical action plan in consultation with the advisory committee. Following the release of the draft plan, the department must allow for a sixty-day public comment period. The advisory committee, following the comment period, shall consider the public comments received; and

(v) The department shall finalize the mercury chemical action plan by December 31, 2002. The final mercury chemical action plan, developed after considering the public comments and the input of the advisory committee, must outline actions for the department to take, including, but not limited to, the development of any rules and recommending any legislation. Implementation must begin no later than February 1, 2003.

(8) Up to \$11,365,000 of the state toxics control account appropriation is provided for the remediation of contaminated sites. Of this amount, up to \$2,000,000 may be used to pay existing site remediation liabilities owed to the federal environmental protection agency for clean-up work that has been completed. The department shall carefully monitor actual revenue collections into the state toxics control account, and is authorized to limit actual expenditures of the appropriation provided in this section consistent with available revenue.

(9) \$200,000 of the state toxics control account appropriation is provided to assess the effectiveness of the state's current toxic pollution prevention and dangerous waste programs and policies. The department shall work with affected stakeholder groups and the public to evaluate the performance of existing programs, and identify feasible methods of reducing the generation of these wastes. The department shall report its findings to the governor and the appropriate committees of the legislature by September 30, 2002.

(10) \$1,200,000 of the state toxics control account appropriation is provided solely for the department, in conjunction with affected local governments, to address emergent areawide soil contamination problems. The department's efforts will include public involvement processes and completing assessments of the geographical extent of toxic contamination including highly contaminated areas.

(11) \$170,000 of the oil spill prevention account appropriation is provided solely for implementation of the Puget Sound work plan action item UW-02 through a contract with the University of Washington's sea grant program to develop an educational program targeted to small spills from commercial fishing vessels, ferries, cruise ships, ports, and marinas.

(12) \$1,500,000 of the general fund—state appropriation for fiscal year 2002, \$1,500,000 of the general fund—state appropriation for fiscal year 2003, and \$3,000,000 of the water quality account appropriation are provided solely to implement chapter 237, Laws of 2001 (Engrossed Substitute House Bill No. 1832, water resources management) and to support the processing of applications for changes and transfers of existing water rights.

(13) (~~(\$4,500,000 of the general fund—state appropriation for fiscal year 2002 and \$4,500,000 of the general fund—state appropriation for fiscal year 2003 are)~~) \$9,000,000 of the water quality account—state appropriation is provided solely for grants to local governments to conduct watershed planning and technical assistance. At least \$7,000,000 shall be distributed as grants and shall include \$200,000 for facilitation of the central Puget Sound regional initiative.

(14) \$3,114,000 of the water quality account appropriation is provided solely to implement Engrossed Substitute House Bill No. 1832 (water resources management). Of this amount: (a) (~~(\$2,100,000)~~) \$1,200,000 is provided for grants to local governments for targeted watershed assessments consistent with Engrossed Substitute House Bill No. 1832; and (b) the remainder of the funding is provided solely for development of a state environmental policy act template to streamline environmental review, creation of a blue ribbon panel to develop long-term watershed planning implementation funding options, and technical assistance.

(~~(18)~~) (15) \$200,000 of the water quality account appropriation is provided solely to provide coordination and assistance to groups established for the purpose of protecting, enhancing, and restoring the biological, chemical, and physical processes of watersheds. These groups may include those involved in coordinated resource management, regional fisheries enhancement groups, conservation districts, watershed councils, and private nonprofit organizations incorporated under Title 24 RCW.

(~~(19)~~) (16) \$325,000 of the state drought preparedness account—state appropriation is provided solely for an environmental impact statement of the Pine Hollow reservoir project to be conducted in conjunction with the local irrigation district.

(~~(20) \$1,700,000~~) (17) \$1,352,000 of the general fund—state appropriation for fiscal year 2002, \$700,000 of the general fund—state appropriation for fiscal year 2003, \$700,000 of the water quality account appropriation, and \$280,000 of the oil spill prevention account appropriation are provided solely for oil spill prevention measures in Puget Sound. Of these amounts:

(a) The general fund appropriation (~~(18)~~) and the water quality account appropriation are provided solely for the department of ecology to provide for

charter safety tug services(~~(Safety tug services shall include: (i)), including the placement of a dedicated tug at Neah Bay for not less than 200 days in fiscal year 2002(, and (ii) other safety tug services that may be released by the department at the request of the United States coast guard captain of the port for Puget Sound to the areas or incidents that the department deems to be of highest concern)) and fiscal year 2003. By January 10, 2002, the department shall report to the appropriate committees of the legislature regarding the number of dispatches, response time and distance, and other factors pertaining to the safety tug services. The general fund—state appropriation in this subsection is provided solely for implementation of the Puget Sound work plan and agency action item DOE-09;~~

(b) \$100,000 of the oil spill prevention account appropriation is provided solely for the department to conduct a vessel transponder feasibility study for Washington waters and undertake a trial vessel tracking program using transponders. In conducting the feasibility study and trial program, the department of ecology shall consult with state pilotage authorities, the maritime industry and the United States coast guard; and

(c) \$180,000 of the oil spill prevention account appropriation is provided solely to acquire vessel incident reporting information.

The governor shall request the federal government to provide ongoing resources to station a dedicated rescue tug at Neah Bay.

~~((2H))~~ (18) \$600,000 of the water quality account—state appropriation is provided solely for setting instream flows in six basins not currently planning under the watershed planning act.

(19) \$200,000 of the water quality account appropriation is provided solely for activities associated with development of the Willapa River total maximum daily load (TMDL). The activities shall include but are not limited to: (a) A contract with Pacific county to complete the oxygen/bacteria and temperature model for the TMDL, conduct a technical analysis of local options for waste load allocations, and develop the first draft of the waste load allocation plan; and (b) a contract for facilitation services for a public process for the TMDL, assist in reaching consensus between parties involved in the technical work, help ensure that there is an accurate public record, and provide a forum for the waste load allocation.

(20) \$175,000 of the biosolids permit account is provided solely to develop a statewide septage strategy. The department shall work with affected stakeholders to address septage permit requirements, changes to existing rules, clarification of state and local responsibilities, and fee structure changes that are necessary to support the program in future biennia. The department shall report its findings to the governor and appropriate committees of the legislature by June 30, 2003.

(21) \$189,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for facilitation services and the following activities:

(a)(i) A joint task force is created to study judicial and administrative alternatives for resolving water disputes. The task force shall be organized and led

by the office of the attorney general. In addition to the office of the attorney general, members of the task force shall include:

(A) Representatives of the legislature, including one member from each caucus appointed by the president of the senate and the speaker of the house of representatives;

(B) Representatives of the superior courts appointed by the president of the superior court judges association, and shall include two judicial officers of the superior court from eastern Washington and two judicial officers of the superior court from western Washington;

(C) A representative of the state court of appeals appointed by the chief justice of the state supreme court;

(D) A representative of the environmental hearings office; and

(E) A representative of the department of ecology.

(ii) The objectives of the task force are to:

(A) Examine and characterize the types of water disputes to be resolved;

(B) Examine the approach of other states to water dispute resolution;

(C) Recommend one or more methods to resolve water disputes, including, but not limited to, an administrative resolution process; a judicial resolution process such as water court; or any combination thereof; and

(D) Recommend an implementation plan that will address:

(I) A specific administrative structure for each method used to resolve water disputes;

(II) The cost to implement the plan; and

(III) The changes to statutes and administrative rules necessary to implement the plan.

(iii) The office of the attorney general shall work with the staff of the standing committees of the legislature with jurisdiction over water resources to research and compile information relevant to the mission of the task force by December 31, 2002.

(iv) The task force shall submit its report to the appropriate committees of the legislature no later than December 30, 2003.

(b) The department of ecology and the attorney general's office shall conduct a study to identify possible ways to streamline the water right general adjudication procedures. By December 1, 2002, the agencies will report on their findings and recommendations to the legislature.

(c)(i) The legislature finds that it is in the public interest to investigate the feasibility of conducting negotiations with other states and Canada regarding use of water bodies they share with the state of Washington.

(ii) The governor, or the governor's designee, shall consult with the states that share water bodies with the state of Washington, with Canada, and with other states that have conducted similar negotiations, regarding issues and strategies in those negotiations and shall report to the standing committees of the legislature having jurisdiction over water resources by January 1, 2003.

(iii) In conducting the consultations under this subsection (c), the governor shall give priority consideration to the interstate issues affecting the Spokane-Rathdrum Prairie aquifer including those issues affecting a safe and adequate supply of public drinking water, as provided by municipal governments.

(d) By October 1, 2002, the department of ecology shall provide to the appropriate standing committees of the legislature, a plan, schedule, and budget for improving the administration of water right records held by the department of ecology. The department of ecology shall work with the department of revenue and with county auditors in developing recommendations for improving the administration of water rights ownership information and integrating this information with real property ownership records. The department of ecology shall evaluate the need for grants to counties to assist with recording and information management needs related to water rights ownership and title.

(2) For applicants that meet eligibility requirements, the department of ecology shall consider individual stormdrain treatment systems to be classified as "activity" projects and eligible for grant funding provided under section 319 the federal Clean Water Act. These projects shall be prioritized for funding along with other grant proposals. Receipt of funding shall be based on this prioritization.

Sec. 303. 2001 2nd sp.s. c 7 s 303 (uncodified) is amended to read as follows:

FOR THE STATE PARKS AND RECREATION COMMISSION

General Fund—State Appropriation (FY 2002) \$	((32,298,000))
	<u>32,198,000</u>
General Fund—State Appropriation (FY 2003) \$	((32,866,000))
	<u>30,340,000</u>
General Fund—Federal Appropriation \$	2,690,000
General Fund—Private/Local Appropriation \$	60,000
Winter Recreation Program Account—State	
Appropriation \$	((787,000))
	<u>1,087,000</u>
Off Road Vehicle Account—State Appropriation . . \$	274,000
Snowmobile Account—State Appropriation \$	4,682,000
Aquatic Lands Enhancement Account—State	
Appropriation \$	337,000
Public Safety and Education Account—State	
Appropriation \$	((48,000))
	<u>47,000</u>
<u>Salmon Recovery Account—State Appropriation . . \$</u>	<u>200,000</u>
Water Trail Program Account—State	
Appropriation \$	24,000
Parks Renewal and Stewardship Account—	
State Appropriation \$	((26,420,000))
	<u>27,193,000</u>
TOTAL APPROPRIATION \$	((100,486,000))

99,132,000

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

(1) Fees approved by the state parks and recreation commission in the 2001-03 biennium are authorized to exceed the fiscal growth factor under RCW 43.135.055.

(2) The state parks and recreation commission, in collaboration with the office of financial management and legislative staff, shall develop a cost-effective and readily accessible approach for reporting revenues and expenditures at each state park. The reporting system shall be complete and operational by December 1, 2001.

(3) ~~((The appropriation in this section from the off-road vehicle account—state is provided under RCW 46.09.170(1)(c) and is provided solely to bring off-road vehicle recreation facilities into compliance with the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act.~~

~~((4))~~ \$79,000 of the general fund—state appropriation for fiscal year 2002, \$79,000 of the general fund—state appropriation for fiscal year 2003, and \$8,000 of the winter recreation program account—state appropriation are provided solely for a grant for the operation of the Northwest avalanche center.

~~((5))~~ (4) \$432,000 of the parks renewal and stewardship account appropriation is provided for the operation of the Silver Lake visitor center. If a long-term management agreement is not reached with the U.S. forest service by September 30, 2001, the amount provided in this subsection shall lapse.

~~((6))~~ (5) \$189,000 of the aquatic lands enhancement account appropriation is provided solely for the implementation of the Puget Sound work plan and agency action item P+RC-02.

(6) The task force on the funding of state parks and outdoor recreation is hereby created, to consider and develop legislation on the operation and funding of the state parks and outdoor recreation programs of the state. The committee shall be composed of fifteen members, four members of the senate appointed by the president of the senate and to include two members from each caucus, four members of the house of representatives appointed by the speaker of the house of representatives and to include two members from each caucus, three members appointed by the governor and to include at least one representative of a broad coalition of users of the state's parks and outdoor recreation programs, one member appointed by the commissioner of public lands, one member appointed by the chair of the fish and wildlife commission, and one member appointed by the chair of the state parks and recreation commission, and one member appointed by the inter a enc committee for outdoor recreation. The task force shall elect its own officers, shall be staffed by staff of the legislature, the executive agencies, and the office of the governor, and may appoint an advisory committee of additional persons and organizations interested in the operation and funding of state parks and outdoor recreation. The task force shall specifically review and incorporate into its work the reports prepared pursuant to budget provisos by the Washington state

parks and recreation commission regarding its operating budget needs, deferred maintenance backlog, and capital facilities renovation and replacement requirements. The task force shall prepare recommendations for improving the operation of state parks and outdoor recreation programs and for securing adequate funding on a permanent basis for supporting the needs of the state parks and outdoor recreation programs of the state, including a legislative proposal for the implementation of an evergreen recreation pass that would combine the various permits and licenses of the participating agencies into a single pass for recreational day use. The recommendations shall be developed no later than January 1, 2003, and shall be designed for enactment by the legislature during 2003 for implementation in the 2005-07 biennium. The task force shall cease to exist on June 30, 2003.

Sec. 304. 2001 2nd sp.s. c 7 s 304 (uncodified) is amended to read as follows:

FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

General Fund—State Appropriation (FY 2002) \$	((393,000))
	<u>143,000</u>
General Fund—State Appropriation (FY 2003) \$	((393,000))
	<u>180,000</u>
General Fund—Federal Appropriation \$	8,358,000
Firearms Range Account—State Appropriation \$	13,000
<u>Salmon Recovery Account—State Appropriation</u> . . \$	<u>500,000</u>
Recreation Resources Account—State	
Appropriation \$	2,584,000
Recreation Resources Account—Federal	
Appropriation \$	481,000
NOVA Program Account—State Appropriation . . . \$	611,000
Water Quality Account—State Appropriation \$	700,000
State Toxics Control Account—State	
Appropriation \$	500,000
Aquatic Lands Enhancement Account—State	
Appropriation \$	200,000
TOTAL APPROPRIATION \$	((14,235,000))
	<u>14,270,000</u>

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

(1) ((~~\$250,000 of the general fund—state appropriation for fiscal year 2002, \$250,000 of the general fund—state appropriation for fiscal year 2003~~)) \$500,000 of the salmon recovery account appropriation, \$500,000 of the water quality account appropriation, and \$500,000 of the state toxics control account appropriation are provided solely to implement chapter 298, Laws of 2001, Substitute Senate Bill No. 5637 (watershed health monitoring and assessment) and for the development of a comprehensive salmon recovery and watershed health

monitoring strategy and action plan. The strategy and action plan shall address the monitoring recommendations of the independent science panel in its report, *Recommendations for Monitoring Salmonid Recovery in Washington State* (December 2000), and of the joint legislative audit and review committee in its report *Investing in the Environment: Environmental Quality Grant and Loan Programs Performance Audit* (January 2001). The action plan shall include an assessment of state agency operations related to monitoring, evaluation, and adaptive management of salmon recovery and watershed health; any operational or statutory changes necessary to implement the strategy and action plan; and funding recommendations.

(2) \$8,000,000 of the general fund—federal appropriation is provided solely for implementation of the forest and fish agreement rules. These funds will be passed through to the department of natural resources and the department of fish and wildlife.

(3) By August 1, 2001, the interagency committee for outdoor recreation shall complete the public lands inventory project and submit the project report to the joint legislative audit and review committee for review.

(4) \$200,000 of the aquatic lands enhancement account—state appropriation is provided solely to develop and implement a conservation initiative for Maury Island. The interagency committee for outdoor recreation shall contract with the Cascade Land Conservancy to develop and implement the initiative and to provide the following services: (a) Land and resource appraisal; (b) development of a plan of finance for acquisition of land or interests in land; and (c) conduct negotiations among purchasers and willing sellers.

(5) \$35,000 of the general fund—state appropriation for fiscal year 2003 is provided solely to the interagency committee for outdoor recreation to convene and facilitate a biodiversity conservation committee to develop recommendations for a state biodiversity program. Up to \$32,000 of this amount may be granted, on a competitive basis, to conduct a review of biodiversity programs and develop recommendations. The grant agreement must be conditioned to require that at least an amount of funding equal to the state grant be applied to the project from nonstate sources. The grantee must provide a final report describing its review and recommendations to the governor and the appropriate standing committees of the senate and house of representatives by October 1, 2003.

Sec. 305. 2001 2nd sp.s. c 7 s 305 (uncodified) is amended to read as follows:

FOR THE ENVIRONMENTAL HEARINGS OFFICE

General Fund—State Appropriation (FY 2002)	\$	846,000
General Fund—State Appropriation (FY 2003)	\$	((847,000))
		<u>822,000</u>
TOTAL APPROPRIATION	\$	((1,693,000))
		<u>1,668,000</u>

Sec. 306. 2001 2nd sp.s. c 7 s 306 (uncodified) is amended to read as follows:

FOR THE CONSERVATION COMMISSION

General Fund—State Appropriation (FY 2002) \$	((2,207,000))
	<u>2,141,000</u>
General Fund—State Appropriation (FY 2003) \$	((2,196,000))
	<u>2,131,000</u>
Water Quality Account—State Appropriation \$	((3,739,000))
	<u>3,498,000</u>
TOTAL APPROPRIATION \$	((8,142,000))
	<u>7,770,000</u>

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

(1) \$500,000 of the water quality account—state appropriation is provided solely for the agriculture, fish, and water negotiations to develop best management practices that will protect and recover salmon. The commission shall make grants to allow interest groups to participate in the negotiations.

(2) ((~~\$1,601,000~~)) \$801,000 of the water quality account—state appropriation is provided solely for the completion of limiting factors analysis for watersheds affected by listings of salmon and bull trout under the federal endangered species act.

(3) \$247,000 of the general fund—state appropriation for fiscal year 2002 and \$247,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of the Puget Sound work plan and agency action item CC-01.

(4) By March 1, 2002, the conservation reserve enhancement program contract with the federal farm service agency shall be proposed for amendment to allow funding of flexible riparian buffer standards consistent with: (a) The recommendations of the state’s agriculture/fish/water negotiation process; or (b) ordinances adopted through municipal regulations in compliance with the state growth management act requirement to protect critical areas. These ordinances shall be scientifically defensible and include programs for monitoring and adaptive management.

Sec. 307. 2001 2nd sp.s. c 7 s 307 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF FISH AND WILDLIFE

General Fund—State Appropriation (FY 2002) \$	((51,600,000))
	<u>46,375,000</u>
General Fund—State Appropriation (FY 2003) \$	((50,762,000))
	<u>44,334,000</u>
General Fund—Federal Appropriation \$	((37,366,000))
	<u>37,716,000</u>
General Fund—Private/Local Appropriation \$	24,365,000
Off Road Vehicle Account—State	
Appropriation \$	475,000
Aquatic Lands Enhancement Account—State	
Appropriation \$	((6,094,000))

		<u>5,133,000</u>
Public Safety and Education Account—State		
Appropriation	\$	((586,000))
		<u>574,000</u>
Recreational Fisheries Enhancement Account—		
State Appropriation	\$	((3,032,000))
		<u>3,354,000</u>
<u>Salmon Recovery Account—State Appropriation . .</u>	<u>\$</u>	<u>1,612,000</u>
Warm Water Game Fish Account—State		
Appropriation	\$	2,567,000
Eastern Washington Pheasant Enhancement Account—		
State Appropriation	\$	750,000
Wildlife Account—State Appropriation	\$	((48,518,000))
		<u>50,680,000</u>
Wildlife Account—Federal Appropriation	\$	38,182,000
Wildlife Account—Private/Local		
Appropriation	\$	15,133,000
Game Special Wildlife Account—State		
Appropriation	\$	1,941,000
Game Special Wildlife Account—Federal		
Appropriation	\$	9,591,000
Game Special Wildlife Account—Private/Local		
Appropriation	\$	350,000
((Water Quality Account—State Appropriation	\$	1,000,000))
Environmental Excellence Account—State		
Appropriation	\$	15,000
Regional Fisheries Salmonid Recovery Account—		
Federal Appropriation	\$	1,750,000
Oil Spill Administration Account—State		
Appropriation	\$	963,000
Oyster Reserve Land Account—State		
Appropriation	\$	135,000
TOTAL APPROPRIATION	\$	((295,175,000))
		<u>285,995,000</u>

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

(1) \$1,682,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$1,682,000~~)) \$1,189,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of the Puget Sound work plan and agency action items DFW-01 through DFW-07.

(2) \$200,000 of the general fund—state appropriation for fiscal year 2002 and \$200,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the department to update the salmon and steelhead stock inventory.

~~(3) ((\$550,000 of the general fund—state appropriation for fiscal year 2002 and \$550,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for salmonid smolt production monitoring.~~

~~—(4))~~ (4) \$250,000 of the general fund—state appropriation for fiscal year 2002 and \$250,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the department to implement a hatchery endangered species act response. The response shall include emergency hatchery responses, production, and retrofitting of hatcheries for salmon recovery.

~~((5))~~ (4) \$600,000 of the general fund—state appropriation for fiscal year 2002 and \$600,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for local salmon recovery technical assistance.

~~((6) \$1,625,000 of the general fund—state appropriation for fiscal year 2002 and \$1,625,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to fund grants to lead entities established under chapter 77.85 RCW. The department, in consultation with the lead entity advisory group and individual lead entities, shall establish an application process and evaluation criteria to allocate funds to up to 26 lead entities to provide core activities identified in chapter 77.85 RCW. Grants to individual lead entities may range from \$37,500 to \$150,000 per year.~~

~~—(7) \$125,000 of the general fund—state appropriation for fiscal year 2002 and \$125,000 of the general fund—state appropriation for fiscal year 2003 are)~~ (5) \$250,000 of the salmon recovery account appropriation is provided solely for a grant to the lower Skykomish River habitat conservation group for the purpose of developing a salmon recovery plan, in coordination with the lead entity established under chapter 77.85 RCW for that area. The salmon recovery plan must be consistent with the regional recovery plans of the Puget Sound shared strategy and criteria developed by the department for the regional salmon recovery planning program.

~~((8) \$1,000,000 of the water quality—state appropriation is provided solely to fund grants to lead entities established under chapter 77.85 RCW or watershed planning units established under chapter 90.82 RCW that agree to coordinate the development of comprehensive local and regional salmon recovery plans. The department shall establish a model for local and regional plans as well as eligibility and evaluation criteria for distribution of funds to lead entities and watershed planning units. No annual grant shall exceed \$125,000 per year.~~

~~—(9))~~ (6) \$91,000 of the warm water game fish account appropriation is provided solely for warm water fish culture at the Rod Meseberg warm water fish production facility.

~~((10) \$300,000)~~ (7) \$200,000 of the general fund—state appropriation for fiscal year 2002 and ~~((300,000))~~ \$200,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to fund ~~((four))~~ three cooperative compliance programs, ~~((two))~~ both in Western ~~((Washington))~~ and ~~((two in))~~ Eastern Washington. The cooperative compliance program shall conduct fish

screen, fish way, and fish passage barrier assessments and correction plans for landowners seeking cooperative compliance agreements with the department.

~~((11) \$1,300,000 of the general fund—state appropriation for fiscal year 2002))~~ (8) \$1,300,000 of the salmon recovery account appropriation, \$400,000 of the general fund—state appropriation for fiscal year 2003, and \$5,000,000 of the general fund—federal appropriation are provided solely for economic adjustment assistance to fishermen pursuant to the 1999 Pacific salmon treaty agreement. .

~~((12) \$2,000,000 of the aquatic lands enhancement account appropriation is provided for cooperative volunteer projects:~~

~~—(13))~~ (9) \$810,000 of the general fund—state appropriation for fiscal year 2002, \$790,000 of the general fund—state appropriation for fiscal year 2003, and \$250,000 of the wildlife account—state appropriation are provided solely for enforcement and biological staff to respond and take appropriate action to public complaints regarding bear and cougar.

~~((14) The department shall evaluate the fish program to determine if activities are aligned with agency objectives and if specific activities support the agency's strategic plan.~~

~~—(15))~~ (10) \$75,000 of the general fund—state appropriation for fiscal year 2003 is provided solely to the department to execute an interagency agreement with the joint legislative audit and review committee to complete an independent organizational and operational review of the fish management division of the fish program. This review shall include:

(a) Identifying those actual functions carried out by the fish management division, including all expenditures by fund source linked to those functions, and the agency's rationale for its current staffing and expenditure levels;

(b) Distinguishing those specific division activities and expenditures that are mandated by court decisions, federal laws or treaties, federal contracts, state laws, and fish and wildlife commission directives, as apart from department discretionary policies;

(c) Reviewing the extent to which division activities and related program expenditures contribute to meeting legislative intent, agency goals, and programmatic objectives; and

(d) Evaluating how performance in meeting intent, goals, and objectives through program activities is measured, reported, and improved.

The committee shall provide a status report on this review to the appropriate legislative policy and fiscal committees by November 1, 2002, and a final report by December 1, 2003.

(11) The department shall implement a lands program manager consolidation program. The consolidation program shall target the department's south central region. The savings from this consolidation shall be used by the department for additional maintenance on agency lands within the south central region.

~~((16))~~ (12) The department shall implement a survey of all agency lands to evaluate whether agency lands support the agency's strategic plan and goals. The

department shall submit a report to the governor and legislature by September 1, 2002, identifying those lands not conforming with the agency's strategic plan and which should be divested.

~~((17))~~ (13) \$388,000 of the general fund—state appropriation for fiscal year 2002 and \$388,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to implement the forests and fish agreement and includes funding to continue statewide coordination and implementation of the forests and fish rules, integration of portions of the hydraulic code into the forest practices rules to provide permit streamlining, and sharing the responsibility of developing and implementing the required forests and fish agreement monitoring and adaptive management program.

~~((18))~~ (14) \$194,000 of the general fund—state appropriation for fiscal year 2002 and \$195,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for staff to represent the state's fish and wildlife interests in hydroelectric project relicensing processes by the federal energy regulatory commission.

~~((19))~~ (15) \$156,000 of the wildlife account—state appropriation is provided solely for a youth fishing coordinator to develop partnerships with local communities, and to identify, develop, fund, and promote youth fishing events and opportunities. Event coordination and promotion services shall be contracted to a private consultant.

~~((20))~~ (16) \$135,000 of the oyster reserve land account appropriation is provided solely to implement chapter 273, Laws of 2001, Engrossed Second Substitute House Bill No. 1658 (state oyster reserve lands).

~~((21))~~ (17) \$43,000 of the general fund—state appropriation for fiscal year 2002 and \$42,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for staffing and operation of the Tennant Lake interpretive center.

~~((22))~~ (18) \$32,000 of the general fund—state appropriation for fiscal year 2002 and \$33,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to support the activities of the aquatic nuisance species coordination committee to foster state, federal, tribal, and private cooperation on aquatic nuisance species issues. The committee shall strive to prevent the introduction of nonnative aquatic species and to minimize the spread of species that are introduced.

~~((23))~~ (19) \$25,000 of the wildlife account—state appropriation is provided solely for the WildWatchCam program to provide internet transmission of live views of wildlife.

~~((24))~~ (20) \$8,000 of the general fund—state appropriation for fiscal year 2002 and \$7,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the payment of the department's share of approved lake management district assessments. By December 15, 2001, the department shall provide the legislature a summary of its activities related to lake management

districts as well as recommendations for establishing equitable lake management district assessments.

(21) The department shall emphasize enforcement of laws related to protection of fish habitat and the illegal harvest of salmon and steelhead. Within the amount provided for the agency, the department shall provide support to the department of health to enforce state shellfish harvest laws.

(22) The fish and wildlife commission shall evaluate the adequacy, structure, and amount of fees for hunting and fishing licenses and make recommendations for revision of the fee structure and schedule as appropriate. The evaluation shall consider, but is not limited to: Assessment of the fish and wildlife resource management needs, fees in adjacent states and countries, and efficiencies made possible through automation. The commission shall report to the legislature and the office of financial management by November 1, 2002.

(23) The department shall establish a hydraulic project approval program technical review task force. The task force shall be composed of a balanced representation of both hydraulic project proponents and conservation interests. The task force shall conduct a thorough evaluation of the hydraulic project approval program and make recommendations to the legislature by November 30, 2002, based u on its evaluation. gThe task gorce recommendations shall include a potential fee structure and schedule for hydraulic project approval permits.

*Sec. 308. 2001 2nd sp.s. c 7 s 308 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF NATURAL RESOURCES

General Fund—State Appropriation (FY 2002) \$	((36,709,000))
	<u>35,949,000</u>
General Fund—State Appropriation (FY 2003) \$	((36,266,000))
	<u>30,465,000</u>
General Fund—Federal Appropriation \$	((3,440,000))
	<u>10,936,000</u>
General Fund—Private/Local Appropriation \$	((1,865,000))
	<u>2,265,000</u>
Forest Development Account—State	
Appropriation \$	((52,511,000))
	<u>50,088,000</u>
Off Road Vehicle Account—State	
Appropriation \$	3,684,000
Surveys and Maps Account—State	
Appropriation \$	2,689,000
Aquatic Lands Enhancement Account—State	
Appropriation \$	((4,458,000))
	<u>3,923,000</u>
Resources Management Cost Account—State	
Appropriation \$	((85,979,000))

		<u>79,156,000</u>
Surface Mining Reclamation Account—State		
Appropriation	\$	((2,549,000))
		<u>2,416,000</u>
Salmon Recovery Account—State		
Appropriation	\$	625,000
Water Quality Account—State Appropriation	\$	2,900,000
Aquatic Land Dredged Material Disposal Site		
Account—State Appropriation	\$	1,056,000
Natural Resource Conservation Areas Stewardship		
Account Appropriation	\$	((34,000))
		<u>209,000</u>
<u>State Toxics Account—State Appropriation</u>	<u>\$</u>	<u>1,865,000</u>
Air Pollution Control Account—State		
Appropriation	\$	629,000
Metals Mining Account—State Appropriation	\$	64,000
Agricultural College Trust Management Account		
Appropriation	\$	1,790,000
<u>Derelict Vessel Removal Account—State</u>		
<u>Appropriation</u>	<u>\$</u>	<u>89,000</u>
TOTAL APPROPRIATION	\$	((237,248,000))
		<u>230,798,000</u>

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

(1) \$18,000 of the general fund—state appropriation for fiscal year 2002, \$18,000 of the general fund—state appropriation for fiscal year 2003, and \$998,000 of the aquatic lands enhancement account appropriation are provided solely for the implementation of the Puget Sound work plan and agency action items DNR-01, DNR-02, and DNR-04.

(2)(a) \$625,000 of the salmon recovery account appropriation, \$1,250,000 of the general fund—state appropriation for fiscal year 2002, \$1,250,000 of the general fund—state appropriation for fiscal year 2003, and \$2,900,000 of the water quality account—state appropriation are provided solely for implementation of chapter 4, Laws of 1999 sp. sess. (forest practices and salmon recovery).

(b) \$250,000 of the salmon recovery account appropriation is provided solely for and shall be expended to develop a small forest landowner data base in ten counties. \$150,000 of the amount in this subsection shall be used to purchase the data. \$100,000 of the amount in this subsection shall purchase contracted analysis of the data.

(3) \$2,000,000 of the forest development account appropriation is provided solely for road decommissioning, maintenance, and repair in the Lake Whatcom watershed.

(4) \$543,000 of the forest fire protection assessment account appropriation, \$22,000 of the forest development account appropriation, and \$76,000 of the resource management cost account appropriation are provided solely to implement chapter 279, Laws of 2001, Substitute House Bill No. 2104, (modifying forest fire protection assessments).

(5) ~~(\$895,000)~~ \$354,000 of the general fund—state appropriation for fiscal year 2002 and \$895,000 of the general fund—state appropriation for fiscal year 2003 shall be transferred to the agricultural college trust management account and are provided solely to manage approximately 70,700 acres of Washington State University's agricultural college trust lands.

~~((7))~~ (6) \$4,000 of the general fund—state appropriation for fiscal year 2002 and \$4,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to compensate the forest board trust for a portion of the lease to the Crescent television improvement district consistent with RCW 79.12.055.

~~((8) The appropriation from the off-road vehicle account—state is provided under RCW 46.09.170(1)(a)(ii) and is provided solely for projects that bring off-road vehicle recreation facilities into compliance with the requirements, guidelines, spirit, and intent of the federal Americans with disabilities act and do not compromise or impair sensitive natural resources.~~

~~—(9))~~ (7) \$828,000 of the surface mine reclamation account appropriation is provided to implement Engrossed House Bill No. 1845 (surface mining fees). If the bill is not enacted by June 30, 2001, the amount provided in this subsection shall lapse.

~~((10))~~ (8) \$800,000 of the aquatic lands enhancement account appropriation and \$200,000 of the resources management cost account appropriation are provided solely to improve asset management on state-owned aquatic lands. The department shall streamline the use authorization process for businesses operating on state-owned aquatic lands and issue decisions on 325 pending lease applications by June 30, ~~((2002))~~ 2003. The department, in consultation with the attorney general, shall develop a strategic program to resolve claims related to contaminated sediments on state-owned aquatic lands.

~~((11))~~ (9) \$246,000 of the resource management cost account appropriation is provided to the department for continuing control of spruce budworm.

~~((12))~~ (10) \$100,000 of the aquatic lands enhancement account is provided solely for the development and initial implementation of a statewide management plan for marine reserves.

~~((13))~~ (11) \$7,657,859 of the general fund—state appropriation for fiscal year 2002 and ~~(\$7,657,859)~~ \$4,153,859 of the general fund—state appropriation for fiscal year 2003 are provided solely for emergency fire suppression.

~~((14))~~ (12) \$7,216,000 of the general fund—state appropriation for fiscal year 2002 and \$6,584,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for fire protection activities and to implement provisions of the 1997 tridata fire program review.

~~((15) \$275,000))~~ (13) \$100,000 of the general fund—state appropriation for fiscal year 2002, ~~(((\$275,000 of the general fund—state appropriation for fiscal year 2003, and))~~ \$550,000 of the aquatic lands enhancement account—state appropriation, and \$209,000 of the natural resources conservation areas stewardship account—state appropriation are provided solely to the department for planning, management, and stewardship of natural area preserves and natural resources conservation areas.

~~((16))~~ (14) \$187,000 of the general fund—state appropriation for fiscal year 2002~~((;))~~ and \$188,000 of the general fund—state appropriation for fiscal year 2003~~((, and \$375,000 of the aquatic lands enhancement account—state appropriation))~~ are provided solely to the department for maintenance and stewardship of public lands.

~~((17))~~ (15) \$100,000 of the general fund—state appropriation for fiscal year 2002, \$100,000 of the general fund—state appropriation for fiscal year 2003, and \$400,000 of the aquatic lands enhancement account appropriation are provided solely for spartina control.

(16) Fees approved by the board of natural resources for filing and recording surveys are authorized to exceed the fiscal growth factor under RCW 43.135.055 for 2002.

(17) The entire state toxics control account appropriation is provided solely for the department to meet its settlement obligation with the U.S. Environmental Protection Agency for the clean-up of the Thea Foss Waterway.

(18) In managing natural resources conservation areas and recreation sites in the San Juan Islands, the department shall employ cost-recovery methods comparable to those employed at similarly situated state park facilities.

(19) \$250,000 of the resource management cost account—state appropriation and \$250,000 of the forest development account—state appropriation are deposited in the contract harvesting revolving account—nonappropriated to implement Substitute Senate Bill No. 6257 (contract harvesting). If Substitute Senate Bill No. 6257 is not enacted the deposit in this subsection shall not occur.

(20) Within the amounts appropriated in this section, the department shall review the current procedures used to mobilize resources to fight forest fires under the state mobilization plan and through the department of natural resources. The review must include recommendations to ensure that the people closest to a fire are called first, to allow private contractors to be mobilized under the state mobilization plan, and to identify other efficiencies. The department shall review recent studies regarding ways to improve forest fire fighting in the state. The department shall consult with representatives of private contractors, fire districts, municipal fire departments, the state fire marshal, appropriate federal agencies, and other interested groups in developing the recommendations. The department shall report their findings and recommendations to the appropriate committees of the legislature by January 1, 2003.

(21) \$4,000,000 of the resource management cost account appropriation is provided solely for the purposes of RCW 79.64.020 and is contingent upon the establishment, management, and protection of the following marine reserves: Tidelands and bedlands adjacent to Cherry Point in Whatcom county; tidelands and bedlands surrounding Maury Island in King county; tidelands, bedlands, harbor areas, and waterways adjacent to the Puyallup River delta, within Commencement Bay in Pierce county; tidelands and bedlands surrounding Cypress Island in Skagit county; and tidelands and bedlands within Fidalgo Bay in Skagit county.

(22) Within the amounts appropriated in this section, the department shall update the Washington State University asset diversification plan to diversify at least ten percent of the commercial forest land base within ten years and report recommendations for implementing the plan to the appropriate committees of the legislature by December 1, 2002.

*Sec. 308 was partially vetoed. See message at end of chapter.

Sec. 309. 2001 2nd sp.s. c 7 s 309 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF AGRICULTURE

General Fund—State Appropriation (FY 2002) \$	((8,165,000))
	<u>7,815,000</u>
General Fund—State Appropriation (FY 2003) \$	((8,024,000))
	<u>7,434,000</u>
General Fund—Federal Appropriation \$	((4,636,000))
	<u>7,441,000</u>
General fund—Private/Local Appropriation \$	1,110,000
Aquatic Lands Enhancement Account—State	
Appropriation \$	2,304,000
State Toxics Control Account—State	
Appropriation \$	((2,672,000))
	<u>2,917,000</u>
TOTAL APPROPRIATION \$	((26,911,000))
	<u>29,021,000</u>

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

(1) \$36,000 of the general fund—state appropriation for fiscal year 2002 and \$37,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for implementation of the Puget Sound work plan and agency action item DOA-01.

(2) ~~((832,000))~~ \$1,077,000 of the state toxics control account appropriation and \$298,000 of the agricultural local account are provided solely to establish a program to monitor pesticides in surface water, sample and analyze surface waters for pesticide residues, evaluate pesticide exposure on salmon species listed under the provisions of the endangered species act, and implement actions needed to protect salmonids.

(3) \$1,480,000 of the aquatic lands enhancement account appropriation is provided solely to initiate a ~~((four-year))~~ plan to eradicate infestations of spartina in Puget Sound, Hood Canal, and Grays Harbor and begin the reduction in spartina infestations in Willapa Bay.

(4) \$75,000 of the general fund—state appropriation for fiscal year 2002, \$75,000 of the general fund—state appropriation for fiscal year 2003, and \$150,000 of the general fund—federal appropriation are provided solely to the small farm and direct marketing program to support small farms in complying with federal, state, and local regulations, facilitating access to food processing centers, and assisting with grant funding requests.

(5) ~~(\$350,000 of the general fund—state appropriation for fiscal year 2002; \$350,000 of the general fund—state appropriation for fiscal year 2003;)~~ \$700,000 of the general fund—federal appropriation and \$700,000 of the general fund—private/local appropriation are provided solely to implement chapter 324, Laws of 2001 (Substitute House Bill No. 1891, marketing of agriculture). ~~((Of these amounts, \$40,000 of the general fund—state appropriation is provided solely to match funds provided by the red raspberry commission to address unfair trade practices by other countries that result in sales in Washington that are below the cost of production in Washington.))~~

(6) \$450,000 of the state toxics control account—state appropriation is provided solely for deposit in the agricultural local nonappropriated account for the plant pest account to reimburse county horticultural pest and disease boards for the costs of pest control activities, including tree removal, conducted under their existing authorities in chapters 15.08 and 15.09 RCW.

(7) The district manager for district two as defined in WAC 16-458-075 shall transfer four hundred fifty thousand dollars from the fruit and vegetable district fund to the plant pest account within the agricultural local fund. The amount transferred must be derived from fees collected for state inspections of tree fruits and shall be used solely to reimburse county horticultural pest and disease boards in district two for the cost of pest control activities, including tree removal, conducted under their existing authority in chapters 15.08 and 15.09 RCW. The transfer of funds shall occur by July 1, 2001. On June 30, 2003, any unexpended portion of the four hundred fifty thousand dollars shall be returned to the fruit and vegetable district fund.

**PART IV
TRANSPORTATION**

Sec. 401. 2001 2nd sp.s. c 7 s 401 (uncodified) is amended to read as follows:

FOR THE DEPARTMENT OF LICENSING

General Fund—State Appropriation (FY 2002) \$	((5,389,000))
	<u>5,366,000</u>
General Fund—State Appropriation (FY 2003) \$	((5,377,000))
	<u>5,300,000</u>

Architects' License Account—State		
Appropriation	\$	((707,000))
		<u>684,000</u>
Cemetery Account—State Appropriation	\$	((214,000))
		<u>200,000</u>
Professional Engineers' Account—State		
Appropriation	\$	((3,032,000))
		<u>3,102,000</u>
Real Estate Commission—State Appropriation	\$	((6,777,000))
		<u>6,837,000</u>
Master License Account—State Appropriation	\$	((8,409,000))
		<u>8,278,000</u>
Uniform Commercial Code Account—State		
Appropriation	\$	((3,104,000))
		<u>2,900,000</u>
Real Estate Education Account—State		
Appropriation	\$	((301,000))
		<u>276,000</u>
Funeral Directors and Embalmers Account—State		
Appropriation	\$	((490,000))
		<u>459,000</u>
Washington Real Estate Research Account		
Appropriation	\$	((316,000))
		<u>307,000</u>
Data Processing Revolving Account—State		
Appropriation	\$	23,000
<u>Derelict Vessel Removal Account—State</u>		
<u>Appropriation</u>	\$	<u>86,000</u>
TOTAL APPROPRIATION	\$	((34,139,000))
		<u>33,818,000</u>

The appropriations in this section are subject to the following conditions and limitations: In accordance with RCW 43.24.086, it is the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. For each licensing program covered by RCW 43.24.086, the department shall set fees at levels sufficient to fully cover the cost of administering the licensing program, including any costs associated with policy enhancements funded in the 2001-03 fiscal biennium. Pursuant to RCW 43.135.055, during the 2001-03 fiscal biennium, the department may increase fees in excess of the fiscal growth factor if the increases are necessary to fully fund the costs of the licensing programs.

Sec. 402. 2001 2nd sp.s. c 7 s 402 (uncodified) is amended to read as follows:
FOR THE STATE PATROL

General Fund—State Appropriation (FY 2002)	\$	((21,890,000))
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	<u>21,567,000</u>
General Fund—State Appropriation (FY 2003) \$	((8,066,000))
	<u>7,933,000</u>
General Fund—Federal Appropriation \$	4,178,000
General Fund—Private/Local Appropriation \$	369,000
Death Investigations Account—State	
Appropriation \$	((3,899,000))
	<u>4,024,000</u>
Public Safety and Education Account—State	
Appropriation \$	((16,070,000))
	<u>14,769,000</u>
County Criminal Justice Assistance Account—State	
Appropriation \$	((2,490,000))
	<u>2,870,000</u>
Municipal Criminal Justice Assistance Account—	
State Appropriation \$	((987,000))
	<u>1,367,000</u>
Fire Service Trust Account—State	
Appropriation \$	125,000
Fire Service Training Account—State	
Appropriation \$	6,328,000
State Toxics Control Account—State	
Appropriation \$	461,000
Violence Reduction and Drug Enforcement Account—	
State Appropriation \$	((277,000))
	<u>274,000</u>
Fingerprint Identification Account—State	
Appropriation \$	((3,684,000))
	<u>5,316,000</u>
TOTAL APPROPRIATION \$	((68,824,000))
	<u>69,581,000</u>

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

(1) \$354,000 of the public safety and education account appropriation is provided solely for additional law enforcement and security coverage on the west capitol campus.

(2) When a program within the agency is supported by more than one fund and one of the funds is the state general fund, the agency shall charge its expenditures in such a manner as to ensure that each fund is charged in proportion to its support of the program. The agency may adopt guidelines for the implementation of this subsection. The guidelines may account for federal matching requirements, budget provisos, or other requirements to spend other moneys in a particular manner.

(3) \$100,000 of the public safety and education account appropriation is provided solely for the implementation of Substitute Senate Bill No. 5896 (DNA testing of evidence). If the bill is not enacted by June 30, 2001, the amount provided in this subsection shall lapse.

(4) \$1,419,000 of the public safety and education account—state appropriation is provided solely for combating the proliferation of methamphetamine labs. The amounts in this subsection are provided solely for the following activities: (a) The establishment of a regional methamphetamine enforcement, training, and education program; (b) additional members for the statewide methamphetamine incident response team; and (c) two forensic scientists with the necessary equipment to perform lab analysis in the crime laboratory division.

~~((6) Beginning in fiscal year 2003, the funding provided in this subsection assumes a transfer of \$12,634,000 of state patrol expenditures from the omnibus operating budget to the transportation budget. If new transportation revenue is not enacted before this time, the omnibus budget will restore this funding in the 2002 legislative session.))~~

(5) Within the amounts appropriated in this section, funding is provided to implement Substitute House Bill No. 2468 (offender DNA database).

**PART V
EDUCATION**

*Sec. 501. 2001 2nd sp.s. c 7 s 501 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION

(1) STATE AGENCY OPERATIONS

General Fund—State Appropriation (FY 2002)	\$	((12,357,000)) <u>12,302,000</u>
General Fund—State Appropriation (FY 2003)	\$	((12,266,000)) <u>12,000,000</u>
General Fund—Federal Appropriation	\$	((23,668,000)) <u>53,760,000</u>
TOTAL APPROPRIATION	\$	((48,291,000)) <u>78,062,000</u>

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

(a) \$11,385,000 of the general fund—state appropriation for fiscal year 2002 and ~~((11,394,000))~~ \$11,101,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the operation and expenses of the office of the superintendent of public instruction. Of this amount, a maximum of \$350,000 is provided in each fiscal year for upgrading information systems including the general apportionment and student information systems.

(b) (~~(\$541,000)~~) \$486,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$441,000)~~) \$481,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the operation and expenses of the state board of education, including basic education assistance activities. Of the general fund—state appropriation (~~(for fiscal year 2002)~~), \$100,000 is provided solely for certificate of mastery development and validation.

(c) \$431,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$431,000)~~) \$418,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the operation and expenses of the Washington professional educator standards board.

(d) \$49,000 of the general fund—state appropriation for fiscal year 2003 is provided solely to support the joint task force on local effort assistance created by House Bill No. 3011.

(2) STATEWIDE PROGRAMS

General Fund—State Appropriation (FY 2002)	\$	((17,274,000))
		<u>17,280,000</u>
General Fund—State Appropriation (FY 2003)	\$	((19,407,000))
		<u>9,990,000</u>
General Fund—Federal Appropriation	\$	((213,016,000))
		<u>85,395,000</u>
TOTAL APPROPRIATION	\$	((249,697,000))
		<u>112,665,000</u>

The appropriations in this subsection are provided solely for the statewide programs specified in this subsection and are subject to the following conditions and limitations:

(a) HEALTH AND SAFETY

(i) A maximum of \$150,000 of the general fund—state appropriation for fiscal year 2002 (~~(and a maximum of \$150,000 of the fiscal year 2003 appropriation are)~~) is provided for alcohol and drug prevention programs pursuant to RCW 66.08.180.

(ii) A maximum \$2,621,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$2,621,000)~~) \$2,542,000 of the general fund—state appropriation for fiscal year 2003 are provided for a corps of nurses located at educational service districts, as determined by the superintendent of public instruction, to be dispatched to the most needy schools to provide direct care to students, health education, and training for school staff.

(iii) A maximum of \$100,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$100,000)~~) \$97,000 of the general fund—state appropriation for fiscal year 2003 are provided to create a school safety center subject to the following conditions and limitations.

(A) The safety center shall: Disseminate successful models of school safety plans and cooperative efforts; provide assistance to schools to establish a comprehensive safe school plan; select models of cooperative efforts that have been proven successful; act as an information dissemination and resource center

when an incident occurs in a school district either in Washington or in another state; coordinate activities relating to school safety; review and approve manuals and curricula used for school safety models and training; and develop and maintain a school safety information web site.

(B) The school safety center shall be established in the office of the superintendent of public instruction. The superintendent of public instruction shall participate in a school safety center advisory committee that includes representatives of educators, classified staff, principals, superintendents, administrators, the American society for industrial security, the state criminal justice training commission, and others deemed appropriate and approved by the school safety center advisory committee. Members of the committee shall be chosen by the groups they represent. In addition, the Washington association of sheriffs and police chiefs shall appoint representatives of law enforcement to participate on the school safety center advisory committee. The advisory committee shall select a chair.

(C) The school safety center advisory committee shall develop a training program, using the best practices in school safety, for all school safety personnel.

(iv) A maximum of \$113,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$103,000)~~) \$100,000 of the general fund—state appropriation for fiscal year 2003 are provided for a school safety training program provided by the criminal justice training commission subject to the following conditions and limitations:

(A) The criminal justice training commission with assistance of the school safety center advisory committee established in section 2(b)(iii) of this section shall develop manuals and curricula for a training program for all school safety personnel.

(B) The Washington state criminal justice training commission, in collaboration with the advisory committee, shall provide the school safety training for all school administrators and school safety personnel, including school safety personnel hired after the effective date of this section.

(v) A maximum of \$250,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$250,000)~~) \$243,000 of the general fund—state appropriation for fiscal year 2003 are provided for training in school districts regarding the prevention of bullying and harassment. The superintendent of public instruction shall use the funds to develop a model bullying and harassment prevention policy and training materials for school and educational service districts. The information may be disseminated in a variety of ways, including workshops and other staff development activities such as videotape or broadcasts.

(vi) A maximum of (~~(\$6,042,000)~~) \$6,048,000 of the general fund—state appropriation for fiscal year 2002 (~~(and a maximum of \$6,028,000 of the general fund—state appropriation for fiscal year 2003 are)~~) is provided for a safety allocation to districts subject to the following conditions and limitations:

(A) The funds shall be allocated at a maximum rate of \$6.36 per year per full-time equivalent K-12 student enrolled in each school district in the prior school year.

(B) Districts shall expend funds allocated under this section to develop and implement strategies identified in a comprehensive safe school plan pursuant to House Bill No. 1818 (student safety) or Senate Bill No. 5543 (student safety). If neither bill is enacted by June 30, 2001, expenditures of the safety allocation shall be subject to (i), (ii), and (iii) of this subsection (a)(vi)(B).

(i) School districts shall use the funds for school safety purposes and are encouraged to prioritize the use of funds allocated under this section for the development, by September 1, 2002, of school-based comprehensive safe school plans that include prevention, intervention, all-hazards/crisis response, and post crisis recovery components. When developing comprehensive safe school plans, school districts are encouraged to use model school safety plans as developed by the school safety center. Implementation of comprehensive safe school plans may include, but is not limited to, employing or contracting for building security monitors in schools during school hours and school events; research-based early prevention and intervention programs; training for school staff, including security personnel; equipment; school safety hotlines; before, during, and after-school student and staff safety; minor building renovations related to student and staff safety and security; and other purposes identified in the comprehensive safe school plan.

(ii) Each school may conduct an evaluation of its comprehensive safe school plan and conduct reviews, drills, or simulated practices in coordination with local fire, law enforcement, and medical emergency management agencies.

(iii) By September 1, 2002, school districts shall provide the superintendent of public instruction information regarding the purposes for which the safety allocation funding was used and the status of the comprehensive safe school plans for the schools in the school district.

(vii) A maximum of \$200,000 of the general fund—state appropriation for fiscal year 2002, a maximum of (~~(\$200,000)~~) \$194,000 of the general fund—state appropriation for fiscal year 2003, and \$400,000 of the general fund—federal appropriation transferred from the department of health are provided for a program that provides grants to school districts for media campaigns promoting sexual abstinence and addressing the importance of delaying sexual activity, pregnancy, and childbearing until individuals are ready to nurture and support their children. Grants to the school districts shall be for projects that are substantially designed and produced by students. The grants shall require a local private sector match equal to one-half of the state grant, which may include in-kind contribution of technical or other assistance from consultants or firms involved in public relations, advertising, broadcasting, and graphics or video production or other related fields.

(viii) A maximum of \$150,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$150,000)~~) \$145,000 of the general fund—

state appropriation for fiscal year 2003 are provided for a nonviolence and leadership training program provided by the institute for community leadership. The program shall provide the following:

(A) Statewide nonviolence leadership coaches training program for certification of educational employees and community members in nonviolence leadership workshops;

(B) Statewide leadership nonviolence student exchanges, training, and speaking opportunities for student workshop participants; and

(C) A request for proposal process, with up to 80 percent funding, for nonviolence leadership workshops serving at least 12 school districts with direct programming in 36 elementary, middle, and high schools throughout Washington state.

(ix) A maximum of \$1,500,000 of the general fund—state appropriation for fiscal year 2002 (~~and a maximum of \$1,500,000 of the general fund—state appropriation for fiscal year 2003 are~~) is provided for school district petitions to juvenile court for truant students as provided in RCW 28A.225.030 and 28A.225.035. Allocation of this money to school districts shall be based on the number of petitions filed.

(b) TECHNOLOGY

(i) A maximum of \$2,000,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$2,000,000)~~) \$1,940,000 of the general fund—state appropriation for fiscal year 2003 are provided for K-20 telecommunications network technical support in the K-12 sector to prevent system failures and avoid interruptions in school utilization of the data processing and video-conferencing capabilities of the network. These funds may be used to purchase engineering and advanced technical support for the network. A maximum of \$650,000 of this amount may be expended for state-level administration and staff training on the K-20 network.

(ii) A maximum of \$617,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$1,112,000)~~) \$1,079,000 of the general fund—state appropriation for fiscal year 2003 are provided for the Washington state leadership assistance for science education reform (LASER) regional partnership coordinated at the Pacific Science Center.

(iii) \$92,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for a study of technology in the public schools subject to the following conditions and limitations:

(A) The superintendent shall convene a technology in education task force to develop recommendations about the use of technology and recommendations about funding technology in the schools after conducting a study. The study shall focus on the application of technology in grades three through twelve. The study shall be completed not later than November 1, 2002, and the recommendations shall be submitted to the education and fiscal committees of

the house of representatives and the senate. The study shall include but not be limited to:

(1) The technology currently available in schools and school districts. Technology includes but is not limited to computers, local area networks, and access to electronic media on the internet;

(2) Methods school districts are using currently to fund technology and recommendations for the future;

(3) Plans to update the technology including any replacement schedules;

(4) Training in the use of technology;

(5) Integration of technology into the curriculum;

(6) The different uses of technology in upper elementary grades, middle school, and high school; and

(7) Applications of technology in schools in other states and how that technology is funded.

(B) The technology in education task force shall consist of the following voting members or their designees: One member from each major caucus of the senate, appointed by the president of the senate; one member from each major caucus of the house of representatives, appointed by the speaker of the house of representatives; the superintendent of public instruction; the chair of the information services board; one representative of the community and technical colleges, appointed by the state board for community and technical colleges; one educational service district superintendent, one school district superintendent, one principal, and one teacher, each appointed by the superintendent of public instruction; two representatives appointed by the higher education coordinating board; and three representatives of the computer or digital technology industry and three members of the general public, each appointed by the superintendent of public instruction. The superintendent of public instruction, or designee, shall chair the task force.

(c) GRANTS AND ALLOCATIONS

(i) A maximum of \$25,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$1,975,000)~~) \$1,916,000 of the general fund—state appropriation for fiscal year 2003 are provided for Senate Bill No. 5695 (alternative certification routes). If the bill is not enacted by June 30, 2001, the amount provided in this subsection shall lapse. The stipend allocation per teacher candidate and mentor pair shall not exceed (~~(\$28,318)~~) \$28,300. The professional educator standards board shall report to the education committees of the legislature by December 15, 2002, on the districts applying for partnership grants, the districts receiving partnership grants, and the number of interns per route enrolled in each district.

(ii) A maximum of \$31,500 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$31,500)~~) \$31,000 of the general fund—state appropriation for fiscal year 2003 are provided for operation of the Cispus environmental learning center.

(iii) A maximum of \$150,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$150,000)~~) \$146,000 of the general fund—state appropriation for fiscal year 2003 are provided for the Washington civil liberties education program.

(iv) A maximum of \$2,150,000 of the general fund—state appropriation for fiscal year 2002 (~~(and a maximum of \$2,150,000 of the general fund—state appropriation for fiscal year 2003 are)~~) is provided for complex need grants. The maximum grants for eligible districts are specified in LEAP Document 30C as developed on April 27, 1997, at 03:00 hours.

(v) A maximum of \$1,377,000 of the general fund—state appropriation for fiscal year 2002 (~~(and a maximum of \$1,377,000 of the general fund—state appropriation for fiscal year 2003 are)~~) is provided for educational centers, including state support activities. (~~(\$100,000)~~) \$50,000 of this amount for fiscal year 2002 is provided to help stabilize funding through distribution among existing education centers that are currently funded by the state at an amount less than (~~(\$100,000 a biennium)~~) \$50,000 a fiscal year.

(vi) A maximum of \$50,000 of the general fund—state appropriation for fiscal year 2002 (~~(and a maximum of \$50,000 of the general fund—state appropriation for fiscal year 2003 are)~~) is provided for an organization in southwest Washington that received funding from the Spokane educational center in the 1995-97 biennium and provides educational services to students who have dropped out of school.

(vii) A maximum of \$1,262,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$1,262,000)~~) \$1,224,000 of the general fund—state appropriation for fiscal year 2003 are provided for in-service training and educational programs conducted by the Pacific Science Center.

(viii) A maximum of \$100,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$100,000)~~) \$97,000 of the general fund—state appropriation for fiscal year 2003 are provided to support vocational student leadership organizations.

(ix) \$9,900,000 of the general fund—federal appropriation is provided for the Washington Reads project to enhance high quality reading instruction and school programs.

(x) A maximum of \$150,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$150,000)~~) \$146,000 of the general fund—state appropriation for fiscal year 2003 are provided for the World War II oral history project.

(xi) (~~(\$30,700,000)~~) \$13,942,000 of the general fund—federal appropriation is provided for school renovation grants for school districts with urgent school renovation needs, special education-related renovations, and technology related renovations.

(xii) (~~(\$1,952,000)~~) \$4,962,000 of the general fund—federal appropriation is provided for LINKS technology challenge grants to integrate educational reform

with state technology systems and development of technology products that enhance professional development and classroom instruction.

(xiii) (~~(\$423,000)~~) \$536,000 of the general fund—federal appropriation is provided for the advanced placement fee program to increase opportunities for low-income students and under-represented populations to participate in advanced placement courses and to increase the capacity of schools to provide advanced placement courses to students.

(xiv) \$12,318,000 of the general fund—federal appropriation is provided for comprehensive school reform demonstration projects to provide grants to low-income schools for improving student achievement through adoption and implementation of research-based curricula and instructional programs.

(xv) (~~(\$4,228,000)~~) \$2,612,000 of the general fund—federal appropriation is provided for teacher quality enhancement through provision of consortia grants to school districts and higher education institutions to improve teacher preparation and professional development.

***Sec. 501 was partially vetoed. See message at end of chapter.**

Sec. 502. 2001 2nd sp.s. c 7 s 502 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT

General Fund—State Appropriation (FY 2002) \$	((3,760,826,000))
	<u>3,786,124,000</u>
General Fund—State Appropriation (FY 2003) \$	((3,751,350,000))
	<u>3,711,897,000</u>
TOTAL APPROPRIATION \$	((7,512,176,000))
	<u>7,498,021,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for certificated staff salaries for the 2001-02 and 2002-03 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. Staff allocations for small school enrollments in (d) through (f) of this subsection shall be reduced for vocational full-time equivalent enrollments. Staff allocations for small school enrollments in grades K-6 shall be the greater of that generated under (a) of this subsection, or under (d) and (e) of this subsection. Certificated staffing allocations shall be as follows:

(a) On the basis of each 1,000 average annual full-time equivalent enrollments, excluding full-time equivalent enrollment otherwise recognized for certificated staff unit allocations under (c) through (f) of this subsection:

(i) Four certificated administrative staff units per thousand full-time equivalent students in grades K-12;

(ii) 49 certificated instructional staff units per thousand full-time equivalent students in grades K-3;

(iii) Forty-six certificated instructional staff units per thousand full-time equivalent students in grades 4-12; and

(iv) An additional 4.2 certificated instructional staff units for grades K-3 and an additional 7.2 certificated instructional staff units for grade 4. Any funds allocated for the additional certificated units provided in this subsection (iv) shall not be considered as basic education funding;

(v) For class size reduction and expanded learning opportunities under the better schools program, an additional 2.2 certificated instructional staff units for the 2001-02 school year and an additional 0.8 certificated instructional staff units for the 2002-03 school year for grades K-4 per thousand full-time equivalent students. Funds allocated for these additional certificated units shall not be considered as basic education funding. The allocation may be used for reducing class sizes in grades K-4 or to provide additional classroom contact hours for kindergarten, before-and-after-school programs, weekend school programs, summer school programs, and intercession opportunities to assist elementary school students in meeting the essential academic learning requirements and student assessment performance standards. For purposes of this subsection, additional classroom contact hours provided by teachers beyond the normal school day under a supplemental contract shall be converted to a certificated full-time equivalent by dividing the classroom contact hours by 900.

(A) Funds provided under this subsection (2)(a)(iv) and (v) in excess of the amount required to maintain the statutory minimum ratio established under RCW 28A.150.260(2)(b) shall be allocated only if the district documents an actual ratio in grades K-4 equal to or greater than 55.4 certificated instructional staff per thousand full-time equivalent students (~~in grades K-4~~) in the 2001-02 school year and 54.0 certificated instructional staff per thousand full-time equivalent students in the 2002-03 school year. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-4 certificated instructional staff ratio achieved in that school year, or the statutory minimum ratio established under RCW 28A.150.260(2)(b), if greater;

(B) Districts at or above 51.0 certificated instructional staff per one thousand full-time equivalent students in grades K-4 may dedicate up to 1.3 of the 55.4 funding ratio in the 2001-02 school year, and up to 1.3 of the 54.0 funding ratio in the 2002-03 school year, to employ additional classified instructional assistants assigned to basic education classrooms in grades K-4. For purposes of documenting a district's staff ratio under this section, funds used by the district to employ additional classified instructional assistants shall be converted to a certificated staff equivalent and added to the district's actual certificated instructional staff ratio. Additional classified instructional assistants, for the

purposes of this subsection, shall be determined using the 1989-90 school year as the base year;

(C) Any district maintaining a ratio in grades K-4 equal to or greater than 55.4 certificated instructional staff per thousand full-time equivalent students in ((grades K-4)) the 2001-02 school year, and a ratio equal to or greater than 54.0 certificated instructional staff per thousand full-time equivalent students in the 2002-03 school year, may use allocations generated under this subsection (2)(a)(iv) and (v) in excess of that required to maintain the minimum ratio established under RCW 28A.150.260(2)(b) to employ additional basic education certificated instructional staff or classified instructional assistants in grades 5-6. Funds allocated under this subsection (2)(a)(iv) and (v) shall only be expended to reduce class size in grades K-6. No more than 1.3 of the certificated instructional funding ratio amount may be expended for provision of classified instructional assistants;

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

(c)(i) On the basis of full-time equivalent enrollment in:

(A) Vocational education programs approved by the superintendent of public instruction, a maximum of 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 19.5 full-time equivalent vocational students; and

(B) Skills center programs meeting the standards for skills center funding established in January 1999 by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative units for each 16.67 full-time equivalent vocational students; ~~(and)~~

(ii) Vocational full-time equivalent enrollment shall be reported on the same monthly basis as the enrollment for students eligible for basic support, and payments shall be adjusted for reported vocational enrollments on the same monthly basis as those adjustments for enrollment for students eligible for basic support; and

(iii) For the 2002-03 school year, indirect cost charges by a school district to vocational-secondary programs shall not exceed 15 percent of the combined basic education and vocational enhancement allocations of state funds;

(d) For districts enrolling not more than twenty-five average annual full-time equivalent students in grades K-8, and for small school plants within any school district which have been judged to be remote and necessary by the state board of education and enroll not more than twenty-five average annual full-time equivalent students in grades K-8:

(i) For those enrolling no students in grades 7 and 8, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for

enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 7 or 8, 1.68 certificated instructional staff units and 0.32 certificated administrative staff units for enrollment of not more than five students, plus one-tenth of a certificated instructional staff unit for each additional student enrolled;

(e) For specified enrollments in districts enrolling more than twenty-five but not more than one hundred average annual full-time equivalent students in grades K-8, and for small school plants within any school district which enroll more than twenty-five average annual full-time equivalent students in grades K-8 and have been judged to be remote and necessary by the state board of education:

(i) For enrollment of up to sixty annual average full-time equivalent students in grades K-6, 2.76 certificated instructional staff units and 0.24 certificated administrative staff units; and

(ii) For enrollment of up to twenty annual average full-time equivalent students in grades 7 and 8, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units;

(f) For districts operating no more than two high schools with enrollments of less than three hundred average annual full-time equivalent students, for enrollment in grades 9-12 in each such school, other than alternative schools:

(i) For remote and necessary schools enrolling students in any grades 9-12 but no more than twenty-five average annual full-time equivalent students in grades K-12, four and one-half certificated instructional staff units and one-quarter of a certificated administrative staff unit;

(ii) For all other small high schools under this subsection, nine certificated instructional staff units and one-half of a certificated administrative staff unit for the first sixty average annual full time equivalent students, and additional staff units based on a ratio of 0.8732 certificated instructional staff units and 0.1268 certificated administrative staff units per each additional forty-three and one-half average annual full time equivalent students.

Units calculated under (f)(ii) of this subsection shall be reduced by certificated staff units at the rate of forty-six certificated instructional staff units and four certificated administrative staff units per thousand vocational full-time equivalent students(-);

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

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

(3) Allocations for classified salaries for the 2001-02 and 2002-03 school years shall be calculated using formula-generated classified staff units determined as follows:

(a) For enrollments generating certificated staff unit allocations under subsection (2)(d) through (h) of this section, one classified staff unit for each three certificated staff units allocated under such subsections;

(b) For all other enrollment in grades K-12, including vocational full-time equivalent enrollments, one classified staff unit for each sixty average annual full-time equivalent students; and

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

(4) Fringe benefit allocations shall be calculated at a rate of ~~((11.27))~~ 10.76 percent in the 2001-02 school year and ~~((11.27))~~ 9.57 percent in the 2002-03 school year for certificated salary allocations provided under subsection (2) of this section, and a rate of ~~((12.92))~~ 12.73 percent in the 2001-02 school year and ~~((12.92))~~ 12.36 percent in the 2002-03 school year for classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the maintenance rate specified in section 504(3) of this act, based on the number of benefit units determined as follows:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full-time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full-time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$8,519 per certificated staff unit in the 2001-02 school year and a maximum of ~~((8,715))~~ \$8,604 per certificated staff unit in the 2002-03 school year.

(b) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(A) of this section, there shall be provided a maximum of \$20,920 per certificated staff unit in the 2001-02 school year and a maximum of ~~((21,401))~~ \$21,129 per certificated staff unit in the 2002-03 school year.

(c) For nonemployee-related costs associated with each vocational certificated staff unit allocated under subsection (2)(c)(i)(B) of this section, there shall be provided a maximum of \$16,233 per certificated staff unit in the 2001-02 school year and a maximum of ~~((16,606))~~ \$16,395 per certificated staff unit in the 2002-03 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maintenance rate of \$494.34 for the 2001-02 and 2002-03 school years per allocated classroom teachers exclusive of salary increase amounts provided in section 504 of this act. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported statewide for the prior school year.

(8) Any school district board of directors may petition the superintendent of public instruction by submission of a resolution adopted in a public meeting to reduce or delay any portion of its basic education allocation for any school year. The superintendent of public instruction shall approve such reduction or delay if it does not impair the district's financial condition. Any delay shall not be for more than two school years. Any reduction or delay shall have no impact on levy authority pursuant to RCW 84.52.0531 and local effort assistance pursuant to chapter 28A.500 RCW.

(9) The superintendent may distribute a maximum of ~~((\$6,510,000))~~ \$6,424,000 outside the basic education formula during fiscal years 2002 and 2003 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 \$480,000 may be expended in fiscal year 2002 and a maximum of ~~((\$491,000))~~ \$485,000 may be expended in fiscal year 2003;

(b) For summer vocational programs at skills centers, a maximum of \$2,098,000 may be expended ~~((each))~~ for the 2001-02 fiscal year and a maximum of \$2,035,000 for the 2003 fiscal year;

(c) A maximum of ~~((\$343,000))~~ \$341,000 may be expended for school district emergencies; and

(d) A maximum of \$500,000 ~~((per))~~ for fiscal year 2002 and \$485,000 for fiscal year 2003 may be expended for programs providing skills training for secondary students who are enrolled in extended day school-to-work programs, as approved by the superintendent of public instruction. The funds shall be allocated at a rate not to exceed \$500 per full-time equivalent student enrolled in those programs.

(10) For purposes of RCW 84.52.0531, the increase per full-time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 2.5 percent from the 2000-01 school year to the 2001-02 school year ~~((, and 3.3 percent from the 2000-01 school year to the 2002-03 school year))~~.

(11) For purposes of RCW 84.52.0531, the increase in appropriations per full-time equivalent student provided in this act, including appropriations for salary and

benefits increases, is 2.9 percent from the 2001-02 school year to the 2002-03 school year.

(12) If two or more school districts consolidate and each district was receiving additional basic education formula staff units pursuant to subsection (2)(b) through (h) of this section, the following shall apply:

(a) For three school years following consolidation, the number of basic education formula staff units shall not be less than the number of basic education formula staff units received by the districts in the school year prior to the consolidation; and

(b) For the fourth through eighth school years following consolidation, the difference between the basic education formula staff units received by the districts for the school year prior to consolidation and the basic education formula staff units after consolidation pursuant to subsection (2)(a) through (h) of this section shall be reduced in increments of twenty percent per year.

Sec. 503. 2001 2nd sp.s. c 7 s 503 (uncodified) is amended to read as follows: **FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—BASIC EDUCATION EMPLOYEE COMPENSATION.** (1) The following calculations determine the salaries used in the general fund allocations for certificated instructional, certificated administrative, and classified staff units under section 502 of this act:

(a) For school year 2001-02, salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E for the appropriate year, by the district's average staff mix factor for basic education and special education certificated instructional staff in that school year, computed using LEAP Document 1S; ((and))

(b) For school year 2002-03, salary allocations for certificated instructional staff units shall be determined for each district by multiplying the district's certificated instructional total base salary shown on LEAP Document 12E for the appropriate year, by the district's average staff mix factor for certificated instructional staff in that school year, computed using LEAP Document 1S; and

(c) Salary allocations for certificated administrative staff units and classified staff units for each district shall be based on the district's certificated administrative and classified salary allocation amounts shown on LEAP Document 12E for the appropriate year.

(2) For the purposes of this section:

(a) "Basic education certificated instructional staff" is defined as provided in RCW 28A.150.100 and "special education certificated staff" means staff assigned to the state-supported special education program pursuant to chapter 28A.155 RCW in positions requiring a certificate;

(b) "LEAP Document 1S" means the computerized tabulation establishing staff mix factors for certificated instructional staff according to education and years

of experience, as developed by the legislative evaluation and accountability program committee on March 25, 1999, at 16:55 hours; and

(c) "LEAP Document 12E" means the computerized tabulation of 2001-02 and 2002-03 school year salary allocations for certificated administrative staff and classified staff and derived and total base salaries for certificated instructional staff as developed by the legislative evaluation and accountability program committee on ~~((March 13, 2001, at 16:32 hours))~~ March 11, 2002, at 22:32 hours.

(3) Incremental fringe benefit factors shall be applied to salary adjustments at a rate of ~~((10.63))~~ 10.12 percent for school year(s) 2001-02 and 8.93 percent for school year 2002-03 for certificated staff and ~~((9.42))~~ for classified staff 9.23 percent for school year(s) 2001-02 and 8.86 percent for the 2002-03 ~~((for classified staff))~~ school year.

(4)(a) Pursuant to RCW 28A.150.410, the following state-wide salary allocation schedules for certificated instructional staff are established for basic education salary allocations:

K-12 Salary Schedule for Certificated Instructional Staff
2001-02 School Year

Years of Service	BA	BA+15	BA+30	BA+45	BA+90
0	27,467	28,209	28,977	29,746	32,219
1	27,836	28,588	29,366	30,171	32,668
2	28,464	29,231	30,025	30,900	33,414
3	29,401	30,192	31,009	31,931	34,490
4	30,063	30,896	31,727	32,689	35,290
5	30,750	31,595	32,443	33,468	36,085
6	31,147	31,974	32,850	33,928	36,531
7	32,164	33,010	33,909	35,055	37,724
8	33,195	34,088	35,008	36,248	38,954
9		35,205	36,169	37,455	40,223
10			37,344	38,724	41,529
11				40,029	42,895
12				41,293	44,298
13					45,736
14					47,181
15					48,408
16 or more					49,376

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	33,811	32,931	35,403	36,996
1	34,252	33,297	35,793	37,377
2	35,030	33,995	36,509	38,124
3	36,177	35,027	37,585	39,273

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4	37,007	35,755	38,355	40,072
5	37,853	36,503	39,121	40,889
6	38,308	36,904	39,508	41,285
7	39,569	38,031	40,700	42,546
8	40,867	39,225	41,930	43,843
9	42,201	40,430	43,200	45,177
10	43,572	41,700	44,505	46,549
11	44,979	43,005	45,872	47,956
12	46,446	44,362	47,275	49,422
13	47,947	45,766	48,712	50,923
14	49,505	47,212	50,251	52,481
15	50,792	48,439	51,557	53,846
16 or more	51,808	49,407	52,589	54,923

K-12 Allocation Salary Schedule For Certificated Instructional Staff
2002-03 School Year

(Years of Service)	BA	BA+15	BA+30	BA+45	BA+90
0	28,318	29,083	29,875	30,668	33,217
1	28,699	29,473	30,276	31,106	33,680
2	29,345	30,137	30,955	31,857	34,449
3	30,312	31,127	31,970	32,920	35,559
4	30,994	31,854	32,710	33,702	36,383
5	31,703	32,574	33,448	34,505	37,203
6	32,112	32,964	33,868	34,979	37,663
7	33,160	34,033	34,959	36,141	38,893
8	34,223	35,145	36,092	37,372	40,161
9		36,295	37,289	38,616	41,470
10			38,501	39,923	42,815
11				41,269	44,225
12				42,572	45,671
13					47,153
14					48,642
15					49,907
16 or more					50,906

Years of Service	BA+135	MA	MA+45	MA+90 or PHD
0	34,859	33,951	36,500	38,142
1	35,313	34,328	36,902	38,535
2	36,116	35,048	37,640	39,305
3	37,298	36,112	38,750	40,490
4	38,153	36,863	39,544	41,314
5	39,026	37,634	40,333	42,156

6	39,495	38,047	40,732	42,564
7	40,795	39,210	41,961	43,864
8	42,133	40,440	43,229	45,201
9	43,509	41,683	44,538	46,577
10	44,922	42,992	45,884	47,991
11	46,373	44,337	47,293	49,442
12	47,885	45,736	48,739	50,953
13	49,432	47,184	50,221	52,501
14	51,039	48,675	51,808	54,107
15	52,366	49,940	53,155	55,514
16 or more	53,413	50,938	54,218	56,624)

<u>Years of Service</u>	<u>BA</u>	<u>BA+15</u>	<u>BA+30</u>	<u>BA+45</u>	<u>BA+90</u>
0	<u>28,300</u>	<u>29,064</u>	<u>29,856</u>	<u>30,649</u>	<u>33,196</u>
1	<u>28,680</u>	<u>29,455</u>	<u>30,257</u>	<u>31,086</u>	<u>33,659</u>
2	<u>29,327</u>	<u>30,117</u>	<u>30,936</u>	<u>31,837</u>	<u>34,428</u>
3	<u>30,293</u>	<u>31,107</u>	<u>31,950</u>	<u>32,899</u>	<u>35,536</u>
4	<u>30,975</u>	<u>31,833</u>	<u>32,690</u>	<u>33,681</u>	<u>36,360</u>
5	<u>31,682</u>	<u>32,553</u>	<u>33,427</u>	<u>34,483</u>	<u>37,179</u>
6	<u>32,091</u>	<u>32,943</u>	<u>33,847</u>	<u>34,956</u>	<u>37,639</u>
7	<u>33,139</u>	<u>34,012</u>	<u>34,937</u>	<u>36,118</u>	<u>38,868</u>
8	<u>34,202</u>	<u>35,122</u>	<u>36,069</u>	<u>37,348</u>	<u>40,135</u>
9		<u>36,272</u>	<u>37,266</u>	<u>38,591</u>	<u>41,443</u>
10			<u>38,477</u>	<u>39,898</u>	<u>42,788</u>
11				<u>41,243</u>	<u>44,196</u>
12				<u>42,545</u>	<u>45,642</u>
13					<u>47,123</u>
14					<u>48,611</u>
15					<u>49,876</u>
16 or more					<u>50,873</u>

<u>Years of Service</u>	<u>BA+135</u>	<u>MA</u>	<u>MA+45</u>	<u>MA+90 or PHD</u>
0	<u>34,836</u>	<u>33,929</u>	<u>36,476</u>	<u>38,118</u>
1	<u>35,291</u>	<u>34,306</u>	<u>36,879</u>	<u>38,510</u>
2	<u>36,093</u>	<u>35,025</u>	<u>37,616</u>	<u>39,280</u>
3	<u>37,274</u>	<u>36,089</u>	<u>38,725</u>	<u>40,464</u>
4	<u>38,129</u>	<u>36,840</u>	<u>39,519</u>	<u>41,288</u>
5	<u>39,001</u>	<u>37,610</u>	<u>40,307</u>	<u>42,129</u>
6	<u>39,470</u>	<u>38,023</u>	<u>40,706</u>	<u>42,537</u>
7	<u>40,769</u>	<u>39,185</u>	<u>41,934</u>	<u>43,836</u>
8	<u>42,106</u>	<u>40,414</u>	<u>43,202</u>	<u>45,172</u>
9	<u>43,481</u>	<u>41,656</u>	<u>44,510</u>	<u>46,548</u>

<u>10</u>	<u>44,894</u>	<u>42,964</u>	<u>45,855</u>	<u>47,960</u>
<u>11</u>	<u>46,344</u>	<u>44,309</u>	<u>47,263</u>	<u>49,410</u>
<u>12</u>	<u>47,854</u>	<u>45,707</u>	<u>48,708</u>	<u>50,921</u>
<u>13</u>	<u>49,401</u>	<u>47,154</u>	<u>50,189</u>	<u>52,467</u>
<u>14</u>	<u>51,006</u>	<u>48,644</u>	<u>51,775</u>	<u>54,073</u>
<u>15</u>	<u>52,333</u>	<u>49,908</u>	<u>53,121</u>	<u>55,479</u>
<u>16 or more</u>	<u>53,379</u>	<u>50,906</u>	<u>54,183</u>	<u>56,588</u>

(b) As used in this subsection, the column headings "BA+(N)" refer to the number of credits earned since receiving the baccalaureate degree.

(c) For credits earned after the baccalaureate degree but before the masters degree, any credits in excess of forty-five credits may be counted after the masters degree. Thus, as used in this subsection, the column headings "MA+(N)" refer to the total of:

(i) Credits earned since receiving the masters degree; and

(ii) Any credits in excess of forty-five credits that were earned after the baccalaureate degree but before the masters degree.

(5) For the purposes of this section:

(a) "BA" means a baccalaureate degree.

(b) "MA" means a masters degree.

(c) "PHD" means a doctorate degree.

(d) "Years of service" shall be calculated under the same rules adopted by the superintendent of public instruction.

(e) "Credits" means college quarter hour credits and equivalent in-service credits computed in accordance with RCW 28A.415.020 and 28A.415.023.

(6) No more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in this act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

(7) The certificated instructional staff base salary specified for each district in LEAP Document 12E and the salary schedules in subsection (4)(a) of this section include three learning improvement days (~~((originally added in the 1999-00 school year))~~ for the 2001-02 school year and two days for the 2002-03 school year). A school district is eligible for the learning improvement day funds for school years 2001-02 and 2002-03, only if (~~((three))~~ the learning improvement days have been added to the 180-day contract year. If fewer (~~((than three))~~) days are added, the additional learning improvement allocation shall be adjusted accordingly. The additional days shall be for activities related to improving student learning consistent with education reform implementation, and shall not be considered part of basic education. The length of a learning improvement day shall not be less than the length of a full day under the base contract. The superintendent of public

instruction shall ensure that school districts adhere to the intent and purposes of this subsection.

(8) The salary allocation schedules established in this section are for allocation purposes only except as provided in RCW 28A.400.200(2).

See. 504. 2001 2nd sp.s. c 7 s 504 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE COMPENSATION ADJUSTMENTS

General Fund—State Appropriation (FY 2002) \$	((124,130,000))
	<u>124,903,000</u>
General Fund—State Appropriation (FY 2003) \$	((274,529,000))
	<u>255,910,000</u>
<u>General Fund—Federal Appropriation (FY 2003) . . \$</u>	<u>191,000</u>
TOTAL APPROPRIATION \$	((398,659,000))
	<u>381,004,000</u>

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

(1) ((~~\$318,024,000~~)) A total of \$329,316,000 is provided for a cost of living adjustment for state formula staff units of 3.7 percent effective September 1, 2001, and ((~~another salary adjustment~~)) 3.6 percent effective on September 1, 2002, ((~~in a percentage amount to be determined by the 2002 legislature~~)) consistent with the provisions of chapter 4, Laws of 2001 (Initiative Measure No. 732). The appropriations include associated incremental fringe benefit allocations at rates of ((~~+10.63~~)) 10.12 percent for school year((s)) 2001-02 and 8.93 percent for school year 2002-03 for certificated staff and ((~~9.42~~)) 9.23 percent for school year((s)) 2001-02 and 8.86 for school year 2002-03 for classified staff.

(a) The appropriations in this section include the increased portion of salaries and incremental fringe benefits for all relevant state-funded school programs in part V of this act, in accordance with chapter 4, Laws of 2001 (Initiative Measure No. 732). Salary adjustments for state employees in the office of superintendent of public instruction and the education reform program are provided in part VII of this act. Increases for general apportionment (basic education) are based on the salary allocation schedules and methodology in section 502 of this act. Increases for special education result from increases in each district's basic education allocation per student. Increases for educational service districts and institutional education programs are determined by the superintendent of public instruction using the methodology for general apportionment salaries and benefits in section 502 of this act.

(b) The appropriations in this section provide cost-of-living and incremental fringe benefit allocations based on formula adjustments as follows:

	School Year	
	2001-02	2002-03
Pupil Transportation (per weighted pupil mile)	\$ 0.77	\$ ((1.44))

		<u>1.54</u>
Highly Capable (per formula student)	\$((8.75))	\$((16.35))
	<u>8.71</u>	<u>16.70</u>
Transitional Bilingual Education (per eligible bilingual student)	\$((22.73))	\$((42.48))
	<u>22.63</u>	<u>44.74</u>
Learning Assistance (per entitlement unit)	\$((11.23))	\$((20.99))
	<u>11.19</u>	<u>22.26</u>
Substitute Teacher (allocation per teacher, section 502(7))	\$ 18.29	\$((34.18))
		<u>36.75</u>

(2) This act appropriates general fund—state funds and other funds for the purpose of providing the annual salary cost-of-living increase required by section 2, chapter 4, Laws of 2001 (Initiative Measure No. 732) for teachers and other school district employees in the state-funded salary base. For employees not included in the state-funded salary base, the annual salary cost-of-living increase may be provided by school districts from the federal funds appropriated in this act and local revenues, including the adjusted levy base as provided in RCW 84.52.053 and section 502 of this act, and state discretionary funds provided under this act.

(3) ((~~\$80,635,000~~)) \$51,688,000 is provided for adjustments to insurance benefit allocations. The maintenance rate for insurance benefit allocations is \$427.73 per month for the 2001-02 and 2002-03 school years. The appropriations in this section provide for a rate increase to \$455.27 per month for the 2001-02 school year and ((~~\$493.59~~)) \$457.07 per month for the 2002-03 school year at the following rates:

	School Year	
	2001-02	2002-03
Pupil Transportation (per weighted pupil mile)	\$ 0.25	\$((0.60))
		<u>0.27</u>
Highly Capable (per formula student)	\$ 1.74	\$((4.18))
		<u>1.81</u>
Transitional Bilingual Education (per eligible bilingual student)	\$ 4.46	\$((10.66))
		<u>4.75</u>
Learning Assistance (per entitlement unit)	\$ 3.51	\$((8.38))
		<u>3.73</u>

(4) The rates specified in this section are subject to revision each year by the legislature.

Sec. 505. 2001 2nd sp.s. c 7 s 505 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION

General Fund—State Appropriation (FY 2002) \$ ((~~193,198,000~~))

	<u>192,402,000</u>
General Fund—State Appropriation (FY 2003) \$	((194,293,000))
	<u>193,293,000</u>
TOTAL APPROPRIATION \$	((387,491,000))
	<u>385,695,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) A maximum of \$767,000 of this fiscal year 2002 appropriation and a maximum of ((~~\$785,000~~)) \$752,000 of the fiscal year 2003 appropriation may be expended for regional transportation coordinators and related activities. The transportation coordinators shall ensure that data submitted by school districts for state transportation funding shall, to the greatest extent practical, reflect the actual transportation activity of each district.

(3) ((~~\$15,000~~)) \$5,000 of the fiscal year 2002 appropriation and ((~~\$20,000~~)) \$5,000 of the fiscal year 2003 appropriation are provided solely for the transportation of students enrolled in "choice" programs. Transportation shall be limited to low-income students who are transferring to "choice" programs solely for educational reasons.

(4) Allocations for transportation of students shall be based on reimbursement rates of ((~~\$37.11~~)) \$37.07 per weighted mile in the 2001-02 school year and ((~~\$37.38~~)) \$37.12 per weighted mile in the 2002-03 school year exclusive of salary and benefit adjustments provided in section 504 of this act. Allocations for transportation of students transported more than one radius mile shall be based on weighted miles as determined by superintendent of public instruction multiplied by the per mile reimbursement rates for the school year pursuant to the formulas adopted by the superintendent of public instruction. Allocations for transportation of students living within one radius mile shall be based on the number of enrolled students in grades kindergarten through five living within one radius mile of their assigned school multiplied by the per mile reimbursement rate for the school year multiplied by 1.29.

Sec. 506. 2001 2nd sp.s. c 7 s 507 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SPECIAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2002) \$	((419,264,000))
	<u>420,165,000</u>
General Fund—State Appropriation (FY 2003) \$	((420,644,000))
	<u>408,761,000</u>
General Fund—Federal Appropriation \$	((256,092,000))
	<u>256,407,000</u>
TOTAL APPROPRIATION \$	((1,096,000,000))

1,085,333,000

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

(1) Funding for special education programs is provided on an excess cost basis, pursuant to RCW 28A.150.390. School districts shall ensure that special education students as a class receive their full share of the general apportionment allocation accruing through sections 502 and 504 of this act. To the extent a school district cannot provide an appropriate education for special education students under chapter 28A.155 RCW through the general apportionment allocation, it shall provide services through the special education excess cost allocation funded in this section.

(2)(a) Effective with the 2001-02 school year, the superintendent of public instruction shall change the S-275 personnel reporting system and all related accounting requirements to ensure that:

(i) Special education students are basic education students first;

(ii) As a class, special education students are entitled to the full basic education allocation; and

(iii) Special education students are basic education students for the entire school day.

(b) Effective with the 2001-02 school year, the S-275 and accounting changes shall supercede any prior excess cost methodologies and shall be required of all school districts.

(3) Each (~~general fund—state~~) fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(4) The superintendent of public instruction shall distribute state funds to school districts based on two categories: The optional birth through age two program for special education eligible developmentally delayed infants and toddlers, and the mandatory special education program for special education eligible students ages three to twenty-one. A "special education eligible student" means a student receiving specially designed instruction in accordance with a properly formulated individualized education program.

(5)(a) For the 2001-02 and 2002-03 school years, the superintendent shall (~~distribute state funds~~) make allocations to each district based on the sum of:

(i) A district's annual average headcount enrollment of developmentally delayed infants and toddlers ages birth through two, multiplied by the district's average basic education allocation per full-time equivalent student, multiplied by 1.15; and

(ii) A district's annual average full-time equivalent basic education enrollment multiplied by the funded enrollment percent determined pursuant to subsection (6)(b) of this section, multiplied by the district's average basic education allocation per full-time equivalent student multiplied by 0.9309.

(b) For purposes of this subsection, "average basic education allocation per full-time equivalent student" for a district shall be based on the staffing ratios required by RCW 28A.150.260 and shall not include enhancements, secondary vocational education, or small schools.

(6) The definitions in this subsection apply throughout this section.

(a) "Annual average full-time equivalent basic education enrollment" means the resident enrollment including students enrolled through choice (RCW 28A.225.225) and students from nonhigh districts (RCW 28A.225.210) and excluding students residing in another district enrolled as part of an interdistrict cooperative program (RCW 28A.225.250).

(b) "Enrollment percent" means the district's resident special education annual average enrollment, excluding the birth through age two enrollment, as a percent of the district's annual average full-time equivalent basic education enrollment.

(i) For the 2001-02 ((and the 2002-03)) school year((s)), each district's funded enrollment percent shall be the lesser of the district's actual enrollment percent ((for the school year for which the allocation is being determined)) or 12.7 percent ((for the 2001-02 school year or 13.0 percent for the 2002-03 school year)).

(ii) For the 2002-03 school year, each district's general fund—state funded special education enrollment shall be the lesser of the district's actual enrollment percent or 12.7 percent. Increases in enrollment percent from 12.7 percent to 13.0 percent shall be funded from the general fund—federal appropriation.

(7) At the request of any interdistrict cooperative of at least 15 districts in which all excess cost services for special education students of the districts are provided by the cooperative, the maximum enrollment percent shall be ((12.7 percent for the 2001-02 school year and 13.0 percent for the 2002-03 school year)) calculated in accordance with subsection (6)(b) of this section, and shall be calculated in the aggregate rather than individual district units. For purposes of this subsection, the average basic education allocation per full-time equivalent student shall be calculated in the aggregate rather than individual district units.

(8) Safety net funding shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) A maximum of (((\$12,000,000)) \$8,500,000 of the general fund—state appropriation and a maximum of \$3,500,000 of the general fund—federal appropriation for fiscal year 2002 ((and a maximum of \$10,623,000 of the general fund—state appropriation for fiscal year 2003)) are provided as safety net funding for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (5) of this section. ((Safety net funding shall be awarded by the state safety net oversight committee.

—(a)) (b) The safety net oversight committee shall first consider the needs of districts adversely affected by the 1995 change in the special education funding formula. Awards shall be based on the lesser of the amount required to maintain the 1994-95 state special education excess cost allocation to the school district in aggregate or on a dollar per funded student basis.

~~((b))~~ (c) The committee shall then consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal and local sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

~~((e))~~ (d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

~~((d))~~ (e) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

~~((e))~~ (f) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

~~((f))~~ (g) The superintendent may expend up to \$120,000 (~~(per year)~~) of the amounts provided in this subsection (8) to provide staff assistance to the committee in analyzing applications for safety net funds received by the committee.

(9) For fiscal year 2003 to the extent necessary, \$12,873,000 of the general fund—federal appropriation is provided for safety net awards for districts with demonstrated needs for state special education funding beyond the amounts provided in subsection (5) of this section. If safety net awards exceed the amount appropriated in this subsection (9), the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider unmet needs for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal and local sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(d) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent in accordance with chapter 318, Laws of 1999.

(e) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(f) The superintendent may expend up to \$120,000 of the amount provided from the general fund—federal appropriation in this subsection (9) to provide staff assistance to the committee in analyzing applications for safety net funds received by the committee.

~~((9))~~ (10) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Prior to revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature.

~~((10))~~ (11) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

- (a) One staff from the office of superintendent of public instruction;
- (b) Staff of the office of the state auditor;
- (c) Staff of the office of the financial management; and
- (d) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

~~((11))~~ (12) To the extent necessary, ~~((5,500,000))~~ \$2,250,000 in fiscal year 2002, \$2,250,000 of the general fund—federal appropriation shall be expended for safety net funding to meet the extraordinary needs of one or more individual special education students. If safety net awards to meet the extraordinary needs exceed ~~((5,500,000))~~ \$2,250,000 of the general fund—federal appropriation, the superintendent shall expend all available federal discretionary funds necessary to meet this need. General fund—state funds shall not be expended for this purpose.

~~((12))~~ (13) A maximum of \$678,000 may be expended from the general fund—state appropriations to fund 5.43 full-time equivalent teachers and 2.1 full-time equivalent aides at children's orthopedic hospital and medical center. This amount is in lieu of money provided through the home and hospital allocation and the special education program.

~~((13))~~ (14) \$1,000,000 of the general fund—federal appropriation is provided for projects to provide special education students with appropriate job and independent living skills, including work experience where possible, to facilitate their successful transition out of the public school system. The funds provided by this subsection shall be from federal discretionary grants.

~~((14))~~ (15) The superintendent shall maintain the percentage of federal flow-through to school districts at 85 percent for the 2001-02 school year. For the 2002-03 school year, the superintendent shall allocate the federal funds as specified in this section and shall adjust federal flow-through funds accordingly. In addition to other purposes, school districts may use increased federal funds for high-cost students, for purchasing regional special education services from educational service districts, and for staff development activities particularly relating to inclusion issues.

~~((15))~~ (16) A maximum of \$1,200,000 of the general fund—federal appropriation may be expended by the superintendent for projects related to use of inclusion strategies by school districts for provision of special education services. The superintendent shall prepare an information database on laws, best practices, examples of programs, and recommended resources. The information may be disseminated in a variety of ways, including workshops and other staff development activities.

~~((16))~~ (17) A school district may carry over from one year to the next year up to 10 percent of general fund—state funds allocated under this program; however, carry over funds shall be expended in the special education program.

(18) The superintendent of public instruction shall implement the recommendations of the joint legislative audit and review committee study on special education (report 01-11) only to the extent that funds have been specifically provided therefor.

Sec. 507. 2001 2nd sp.s. c 7 s 508 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRAFFIC SAFETY EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2002) \$	((3,595,000)) 3,765,000
General Fund—State Appropriation (FY 2003) \$	((2,588,000)) 512,000

Public Safety and Education Account

<u>Appropriation</u> \$	6,567,000
TOTAL APPROPRIATION \$	((6,183,000)) 10,844,000

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

~~((1))~~ (a) The appropriations include such funds as are necessary to complete the school year ending in each fiscal year and for prior fiscal year adjustments.

~~((2))~~ (b) A maximum of \$253,000 of the fiscal year 2002 general fund appropriation (~~and a maximum of \$254,000 of the fiscal year 2003 general fund appropriation~~) may be expended for regional traffic safety education coordinators.

~~((3))~~ (c) Allocations to provide tuition assistance for students eligible for free and reduced price lunch who complete the program shall be a maximum of \$203.97 per eligible student in the 2001-02 (~~and 2002-03~~) school (~~(years)~~) year.

(2) The public safety and education account appropriation in this section is subject to the following conditions and limitations:

(a) The public safety and education account appropriation shall lapse if House Bill No. 2573 (traffic safety education) is not enacted by June 30, 2002.

(b) If House Bill No. 2573 is enacted by June 30, 2002, districts shall receive the following allocations:

(i) The maximum basic state allocation per student completing the program shall be \$148.00 in the 2002-03 school year.

(ii) Additional allocations to provide tuition assistance for students eligible for free and reduced price lunch who complete the program shall be a maximum of \$71.00 per eligible student in the 2002-03 school year.

(c) A maximum of \$254,000 may be expended for regional traffic safety education coordinators.

Sec. 508. 2001 2nd sp.s. c 7 s 509 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS

General Fund—State Appropriation (FY 2002) \$	((4,768,000)) 4,757,000
General Fund—State Appropriation (FY 2003) \$	((4,768,000)) 4,571,000
TOTAL APPROPRIATION \$	((9,536,000)) 9,328,000

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

(1) The educational service districts shall continue to furnish financial services required by the superintendent of public instruction and RCW 28A.310.190 (3) and (4).

(2) \$250,000 of the general fund appropriation for fiscal year ~~((2000))~~ 2002 and ~~((250,000))~~ \$243,000 of the general fund appropriation for fiscal year ~~((2001))~~ 2003 are provided solely for student teaching centers as provided in RCW 28A.415.100.

(3) A maximum of \$250,000 of the fiscal year 2002 general fund appropriation and a maximum of ~~((250,000))~~ \$243,000 of the fiscal year 2003 general fund appropriation are provided for centers for the improvement of teaching pursuant to RCW 28A.415.010.

Sec. 509. 2001 2nd sp.s. c 7 s 510 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR LOCAL EFFORT ASSISTANCE

General Fund—State Appropriation (FY 2002) \$	((136,315,000)) 140,932,000
General Fund—State Appropriation (FY 2003) \$	((148,329,000)) 154,931,000
TOTAL APPROPRIATION \$	((284,644,000)) 295,863,000

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

Calendar year 2003 local effort assistance calculations under chapter 28A.500 RCW shall be adjusted by multiplying allocations and maximum eligibility for each district by 0.99 as authorized by House Bill No. 3011.

Sec. 510. 2001 2nd sp.s. c 7 s 511 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS

General Fund—State Appropriation (FY 2002) \$	((19,133,000))
	<u>19,073,000</u>
General Fund—State Appropriation (FY 2003) \$	((19,115,000))
	<u>18,658,000</u>
General Fund—Federal Appropriation \$	8,548,000
TOTAL APPROPRIATION \$	((46,796,000))
	<u>46,279,000</u>

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

(1) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) State funding provided under this section is based on salaries and other expenditures for a 220-day school year. The superintendent of public instruction shall monitor school district expenditure plans for institutional education programs to ensure that districts plan for a full-time summer program.

(3) State funding for each institutional education program shall be based on the institution’s annual average full-time equivalent student enrollment. Staffing ratios for each category of institution shall remain the same as those funded in the 1995-97 biennium.

(4) The funded staffing ratios for education programs for juveniles age 18 or less in department of corrections facilities shall be the same as those provided in the 1997-99 biennium.

(5) \$141,000 of the general fund—state appropriation for fiscal year 2002 and \$139,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to maintain at least one certificated instructional staff and related support services at an institution whenever the K-12 enrollment is not sufficient to support one full-time equivalent certificated instructional staff to furnish the educational program. The following types of institutions are included: Residential programs under the department of social and health services for developmentally disabled juveniles, programs for juveniles under the department of corrections, and programs for juveniles under the juvenile rehabilitation administration.

(6) Ten percent of the funds allocated for each institution may be carried over from one year to the next.

Sec. 511. 2001 2nd sp.s. c 7 s 512 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS

General Fund—State Appropriation (FY 2002) \$	((6,443,000))
	<u>6,470,000</u>
General Fund—State Appropriation (FY 2003) \$	((6,397,000))
	<u>6,229,000</u>

TOTAL APPROPRIATION \$	((12,840,000))
	<u>12,699,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Allocations for school district programs for highly capable students shall be distributed at a maximum rate of ((~~\$328.10~~)) \$327.22 per funded student for the 2001-02 school year and ((~~\$328.05~~)) \$313.07 per funded student for the 2002-03 school year, exclusive of salary and benefit adjustments pursuant to section 504 of this act. The number of funded students shall be a maximum of two percent of each district's full-time equivalent basic education enrollment.

(3) \$175,000 of the fiscal year 2002 appropriation and ((~~\$175,000~~)) \$170,000 of the fiscal year 2003 appropriation are provided for the centrum program at Fort Worden state park.

(4) \$93,000 of the fiscal year 2002 appropriation and ((~~\$93,000~~)) \$90,000 of the fiscal year 2003 appropriation are provided for the Washington imagination network and future problem-solving programs.

Sec. 512. 2001 2nd sp.s. c 7 s 513 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR MISCELLANEOUS PURPOSES UNDER THE ELEMENTARY AND SECONDARY SCHOOL IMPROVEMENT ACT AND THE NO CHILD LEFT BEHIND ACT

General Fund—Federal Appropriation \$	((288,166,000))
	<u>201,737,000</u>

Sec. 513. 2001 2nd sp.s. c 7 s 514 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATION REFORM PROGRAMS

General Fund—State Appropriation (FY 2002) \$	((35,882,000))
	<u>36,880,000</u>
General Fund—State Appropriation (FY 2003) \$	((36,363,000))
	<u>30,150,000</u>
General Fund—Federal Appropriation \$	((3,000,000))
	<u>60,571,000</u>
TOTAL APPROPRIATION \$	((75,245,000))
	<u>127,601,000</u>

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

(1) \$322,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$322,000~~)) \$312,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the academic achievement and accountability commission.

(2) (~~(\$11,209,000)~~) \$12,209,000 of the general fund—state appropriation for fiscal year 2002, (~~(\$10,872,000)~~) \$8,872,000 of the general fund—state appropriation for fiscal year 2003, and (~~(\$3,000,000)~~) \$4,000,000 of the general fund—federal appropriation are provided for development and implementation of the Washington assessments of student learning. Up to \$689,000 of the appropriation may be expended for data analysis and data management of test results.

(3) \$1,095,000 of the fiscal year 2002 general fund—state appropriation and (~~(\$1,095,000)~~) \$548,000 of the fiscal year 2003 general fund—state appropriation are provided solely for training of paraprofessional classroom assistants and certificated staff who work with classroom assistants as provided in RCW 28A.415.310.

(4) \$4,695,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$4,695,000)~~) \$2,348,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for mentor teacher assistance, including state support activities, under RCW 28A.415.250 and 28A.415.260, and for a mentor academy. Up to \$200,000 of the amount in this subsection may be used each fiscal year to operate a mentor academy to help districts provide effective training for peer mentors. Funds for the teacher assistance program shall be allocated to school districts based on the number of first year beginning teachers.

(a) A teacher assistance program is a program that provides to a first year beginning teacher peer mentor services that include but are not limited to:

(i) An orientation process and individualized assistance to help beginning teachers who have been hired prior to the start of the school year prepare for the start of a school year;

(ii) The assignment of a peer mentor whose responsibilities to the beginning teacher include but are not limited to constructive feedback, the modeling of instructional strategies, and frequent meetings and other forms of contact;

(iii) The provision by peer mentors of strategies, training, and guidance in critical areas such as classroom management, student discipline, curriculum management, instructional skill, assessment, communication skills, and professional conduct. A district may provide these components through a variety of means including one-on-one contact and workshops offered by peer mentors to groups, including cohort groups, of beginning teachers;

(iv) The provision of release time, substitutes, mentor training in observation techniques, and other measures for both peer mentors and beginning teachers, to allow each an adequate amount of time to observe the other and to provide the classroom experience that each needs to work together effectively;

(v) Assistance in the incorporation of the essential academic learning requirements into instructional plans and in the development of complex teaching strategies, including strategies to raise the achievement of students with diverse learning styles and backgrounds; and

(vi) Guidance and assistance in the development and implementation of a professional growth plan. The plan shall include a professional self-evaluation component and one or more informal performance assessments. A peer mentor may not be involved in any evaluation under RCW 28A.405.100 of a beginning teacher whom the peer mentor has assisted through this program.

(b) In addition to the services provided in (a) of this subsection, an eligible peer mentor program shall include but is not limited to the following components:

(i) Strong collaboration among the peer mentor, the beginning teacher's principal, and the beginning teacher;

(ii) Stipends for peer mentors and, at the option of a district, for beginning teachers. The stipends shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.400.200 and are not subject to the continuing contract provisions of Title 28A RCW; and

(iii) To the extent that resources are available for this purpose and that assistance to beginning teachers is not adversely impacted, the program may serve second year and more experienced teachers who request the assistance of peer mentors.

(5) \$2,025,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$2,025,000)~~) \$1,964,000 of the general fund—state appropriation for fiscal year 2003 are provided for improving technology infrastructure, monitoring and reporting on school district technology development, promoting standards for school district technology, promoting statewide coordination and planning for technology development, and providing regional educational technology support centers, including state support activities, under chapter 28A.650 RCW. The superintendent of public instruction shall coordinate a process to facilitate the evaluation and provision of online curriculum courses to school districts which includes the following: Creation of a general listing of the types of available online curriculum courses; a survey conducted by each regional educational technology support center of school districts in its region regarding the types of online curriculum courses desired by school districts; a process to evaluate and recommend to school districts the best online courses in terms of curriculum, student performance, and cost; and assistance to school districts in procuring and providing the courses to students.

(6) \$3,600,000 of the general fund—state appropriation for fiscal year 2002 and \$3,600,000 of the general fund—state appropriation for fiscal year 2003 are provided for grants to school districts to provide a continuum of care for children and families to help children become ready to learn. Grant proposals from school districts shall contain local plans designed collaboratively with community service providers. If a continuum of care program exists in the area in which the school district is located, the local plan shall provide for coordination with existing programs to the greatest extent possible. Grant funds shall be allocated pursuant to RCW 70.190.040.

(7) \$2,500,000 of the general fund—state appropriation for fiscal year 2002 and \$2,500,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the meals for kids program under RCW 28A.235.145 through 28A.235.155.

(8) \$1,409,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$1,409,000)~~) \$705,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the leadership internship program for superintendents, principals, and program administrators.

(9) \$1,828,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$1,828,000)~~) \$1,773,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the mathematics helping corps subject to the following conditions and limitations:

(a) In order to increase the availability and quality of technical mathematics assistance statewide, the superintendent of public instruction shall employ mathematics school improvement specialists to provide assistance to schools and districts. The specialists shall be hired by and work under the direction of a statewide school improvement coordinator. The mathematics improvement specialists shall serve on a rotating basis from one to three years and shall not be permanent employees of the superintendent of public instruction.

(b) The school improvement specialists shall provide the following:

(i) Assistance to schools to disaggregate student performance data and develop improvement plans based on those data;

(ii) Consultation with schools and districts concerning their performance on the Washington assessment of student learning and other assessments emphasizing the performance on the mathematics assessments;

(iii) Consultation concerning curricula that aligns with the essential academic learning requirements emphasizing the academic learning requirements for mathematics, the Washington assessment of student learning, and meets the needs of diverse learners;

(iv) Assistance in the identification and implementation of research-based instructional practices in mathematics;

(v) Staff training that emphasizes effective instructional strategies and classroom-based assessment for mathematics;

(vi) Assistance in developing and implementing family and community involvement programs emphasizing mathematics; and

(vii) Other assistance to schools and school districts intended to improve student mathematics learning.

(10) A maximum of \$500,000 of the general fund—state appropriation for fiscal year 2002 and a maximum of (~~(\$500,000)~~) \$485,000 of the general fund—state appropriation for fiscal year 2003 are provided for summer accountability institutes offered by the superintendent of public instruction and the academic achievement and accountability commission. The institutes shall provide school district staff with training in the analysis of student assessment data, information

regarding successful district and school teaching models, research on curriculum and instruction, and planning tools for districts to improve instruction in reading, mathematics, language arts, and guidance and counseling.

(11) \$3,930,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$3,829,000)~~) \$3,714,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the Washington reading corps subject to the following conditions and limitations:

(a) Grants shall be allocated to schools and school districts to implement proven, research-based mentoring and tutoring programs in reading for low-performing students in grades K-6. If the grant is made to a school district, the principals of schools enrolling targeted students shall be consulted concerning design and implementation of the program.

(b) The programs may be implemented before, after, or during the regular school day, or on Saturdays, summer, intercessions, or other vacation periods.

(c) Two or more schools may combine their Washington reading corps programs.

(d) A program is eligible for a grant if it meets the following conditions:

(i) The program employs methods of teaching and student learning based on reliable reading/literacy research and effective practices;

(ii) The program design is comprehensive and includes instruction, on-going student assessment, professional development, parental/community involvement, and program management aligned with the school's reading curriculum;

(iii) It provides quality professional development and training for teachers, staff, and volunteer mentors and tutors;

(iv) It has measurable goals for student reading aligned with the essential academic learning requirements; and

(v) It contains an evaluation component to determine the effectiveness of the program.

(e) Funding priority shall be given to low-performing schools.

(f) Beginning and end-of-program testing data shall be available to determine the effectiveness of funded programs and practices. Common evaluative criteria across programs, such as grade-level improvements shall be available for each reading corps program. The superintendent of public instruction shall provide program evaluations to the governor and the appropriate committees of the legislature. Administrative and evaluation costs may be assessed from the annual appropriation for the program.

(g) Grants provided under this section may be used by schools and school districts for expenditures from September 2001 through August 31, 2003.

(12) (~~(\$377,000)~~) \$375,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$701,000)~~) \$725,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for salary bonuses for teachers who attain certification by the national board for professional teaching standards((-)), subject to the following conditions and limitations:

~~((b))~~ ~~In the 2002-03 school year,~~) (a) Teachers who have attained certification by the national board ~~((in the 2000-01 school year or the 2001-02 school year or the 2002-03 school year))~~ shall receive an annual bonus not to exceed \$3,500.

~~((c))~~ (b) The annual bonus shall be paid in a lump sum amount and shall not be included in the definition of "earnable compensation" under RCW 41.32.010(10).

~~((d))~~ (c) It is the intent of the legislature that teachers achieving certification by the national board of professional teaching standards will receive no more than ~~((three))~~ four annual bonus payments for attaining certification by the national board.

(13) ~~\$625,000~~ of the general fund—state appropriation for fiscal year 2002 and ~~((625,000))~~ \$313,000 of the general fund—state appropriation for fiscal year 2003 are provided for a principal support program. The office of the superintendent of public instruction may contract with an independent organization to administer the program. The program shall include: (a) Development of an individualized professional growth plan for a new principal or principal candidate; and (b) participation of a mentor principal who works over a period of between one and three years with the new principal or principal candidate to help him or her build the skills identified as critical to the success of the professional growth plan.

(14) \$71,000 of the general fund—state appropriation for fiscal year 2002 and \$71,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the second grade reading test. The funds shall be expended for assessment training for new second grade teachers and replacement of assessment materials.

(15) ~~\$384,000~~ of the general fund—state appropriation for fiscal year 2002 and ~~((384,000))~~ \$372,000 of the general fund—state appropriation for fiscal year 2003 are provided for the superintendent to assist schools in implementing high academic standards, aligning curriculum with these standards, and training teachers to use assessments to improve student learning. Funds may also be used to increase community and parental awareness of education reform.

(16) \$130,000 of the general fund—state appropriation for fiscal year 2002 and ~~((130,000))~~ \$126,000 of the general fund—state appropriation for fiscal year 2003 are provided for the development and posting of web-based instructional tools, assessment data, and other information that assists schools and teachers implementing higher academic standards.

(17) \$1,000,000 of the general fund—state appropriation for fiscal year 2002 and ~~((1,800,000))~~ \$1,746,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to the office of the superintendent of public instruction for focused assistance. The office of the superintendent of public instruction shall conduct educational audits of low-performing schools and enter into performance agreements between school districts and the office to implement the recommendations of the audit and the community. Of the amounts provided, \$219,000 of the fiscal year 2002 appropriation and ~~((207,000))~~ \$201,000 of the

fiscal year 2003 appropriation are provided to the office of the superintendent of public instruction for the administrative duties arising under this subsection. Each educational audit shall include recommendations for best practices and ways to address identified needs and shall be presented to the community in a public meeting to seek input on ways to implement the audit and its recommendations.

(18) \$100,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for grants to school districts to adopt or revise district-wide and school-level plans to achieve performance improvement goals established under RCW 28A.655.030, and to post a summary of the improvement plans on district websites using a common format provided by the office of the superintendent of public instruction.

(19) \$100,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for recognition plaques for schools that successfully met the fourth grade reading improvement goal established under RCW 28A.655.050.

(20) \$46,554,000 of the general fund—federal appropriation is provided for preparing, training, and recruiting high quality teachers and principals under Title II of the no child left behind act.

(21) \$6,591,000 of the general fund—federal appropriation is provided for the reading first program under Title I of the no child left behind act.

(22) In addition to amounts provided in subsection (2) of this section, \$3,426,000 of the general fund—federal appropriation is provided for the development of state assessments as required under Title VI of the no child left behind act.

Sec. 514. 2001 2nd sp.s. c 7 s 515 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS

General Fund—State Appropriation (FY 2002) \$	((43,044,000)) <u>42,767,000</u>
General Fund—State Appropriation (FY 2003) \$	((45,171,000)) <u>44,734,000</u>
<u>General Fund—Federal Appropriation (FY 2003) . . \$</u>	<u>20,280,000</u>
TOTAL APPROPRIATION \$	((88,215,000)) <u>107,781,000</u>

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

~~((1))~~ (a) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

~~((2))~~ (b) The superintendent shall distribute a maximum of ~~((687-19))~~ \$684.36 per eligible bilingual student in the 2001-02 school year and ~~((687-19))~~ \$674.69 in the 2002-03 school year, exclusive of salary and benefit adjustments provided in section 504 of this act.

~~((3))~~ (c) The superintendent may withhold up to \$295,000 in school year 2001-02 and up to ~~(\$268,000)~~ \$700,000 in school year 2002-03, and adjust the per eligible pupil rates in subsection (2) of this section accordingly, for the central provision of assessments as provided in section 2(1) and (2) of Engrossed Second Substitute House Bill No. 2025.

~~((4))~~ (d) \$70,000 of the amounts appropriated in this section are provided solely to develop a system for the tracking of current and former transitional bilingual program students.

~~((5))~~ (e) Sufficient funding is provided to implement Engrossed Second Substitute House Bill No. 2025 (schools/bilingual instruction).

(2) The general fund—federal appropriation in this section is provided for migrant education, English language acquisition, and language enhancement grants under Title III of the no child left behind act.

Sec. 515. 2001 2nd sp.s. c 7 s 516 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM

General Fund—State Appropriation (FY 2002) \$	((70,593,000)) <u>71,342,000</u>
General Fund—State Appropriation (FY 2003) \$	((68,817,000)) <u>64,614,000</u>
<u>General Fund—Federal Appropriation (FY 2003) . . \$</u>	<u>130,631,000</u>
TOTAL APPROPRIATION \$	((139,410,000)) <u>266,587,000</u>

(1) The general fund—state appropriations in this section are subject to the following conditions and limitations:

~~((1))~~ (a) Each general fund—state fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

~~((2))~~ (b) Funding for school district learning assistance programs shall be allocated at maximum rates of ~~(\$408.38)~~ \$407.39 per funded unit for the 2001-02 school year and ~~(\$409.41)~~ \$404.78 per funded unit for the 2002-03 school year exclusive of salary and benefit adjustments provided under section 504 of this act.

~~((3))~~ (c) For purposes of this section, "test results" refers to the district results from the norm-referenced test administered in the specified grade level. The norm-referenced test results used for the third and sixth grade calculations shall be consistent with the third and sixth grade tests required under RCW 28A.230.190 and 28A.230.193.

~~((4))~~ (d) A school district's general fund—state funded units for the 2001-02 ~~(and 2002-03)~~ school year ~~((s))~~ shall be the sum of the following:

~~((a))~~ (i) The district's full-time equivalent enrollment in grades K-6, multiplied by the 5-year average 4th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.92.

As the 3rd grade test becomes available, it shall be phased into the 5-year average on a 1-year lag; and

~~((b))~~ (ii) The district's full-time equivalent enrollment in grades 7-9, multiplied by the 5-year average 8th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.92. As the 6th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag; and

~~((c))~~ (iii) The district's full-time equivalent enrollment in grades 10-11 multiplied by the 5-year average 11th grade lowest quartile test results, multiplied by 0.92. As the 9th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag; and

~~((d))~~ (iv) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year multiplied by 22.3 percent.

~~((5))~~ (e)(i) A school district's general fund—state funded units for the 2002-03 school year shall be the sum of the following:

(A) The district's full-time equivalent enrollment in grades K-6, multiplied by the 5-year average 4th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 3rd grade test becomes available, it shall be phased into the 5-year average on a 1-year lag;

(B) The district's full-time equivalent enrollment in grades 7-9, multiplied by the 5-year average 8th grade lowest quartile test results as adjusted for funding purposes in the school years prior to 1999-2000, multiplied by 0.82. As the 6th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag; and

(C) The district's full-time equivalent enrollment in grades 10-11 multiplied by the 5-year average 11th grade lowest quartile test results, multiplied by 0.82. As the 9th grade test becomes available, it shall be phased into the 5-year average for these grades on a 1-year lag; and

(D) If, in the prior school year, the district's percentage of October headcount enrollment in grades K-12 eligible for free and reduced price lunch exceeded the state average, subtract the state average percentage of students eligible for free and reduced price lunch from the district's percentage and multiply the result by the district's K-12 annual average full-time equivalent enrollment for the current school year multiplied by 22.3 percent.

(ii) In addition to amounts allocated under (a) of this subsection, the superintendent shall provide additional amounts as follows:

(A) For school districts receiving less than a 3.0 percent increase in federal Title I Part A (basic program) funds, the multiplier in (i)(A), (B), and (C) of this subsection (e) shall be .92;

(B) For school districts not eligible for additional funds under (b)(i) of this subsection, and whose effective increase in federal Title I Part A (basic program) funds is less than 3.0 percent after taking into account the change in the multiplier from .92 to .82, an additional amount to provide a 3.0 percent increase.

(f) School districts may carry over from one year to the next up to 10 percent of general fund—state funds allocated under this program; however, carryover funds shall be expended for the learning assistance program.

(2) The general fund—federal appropriation in this section is provided for Title I Part A allocations of the no child left behind act of 2001.

Sec. 516. 2001 2nd sp.s. c 7 s 517 (uncodified) is amended to read as follows:
FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS

General Fund—State Appropriation (FY 2002) \$	((19,515,000))
	<u>19,663,000</u>
General Fund—State Appropriation (FY 2003) \$	((17,516,000))
	<u>3,541,000</u>
TOTAL APPROPRIATION \$	((37,031,000))
	<u>23,204,000</u>

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

(1) Each general fund fiscal year appropriation includes such funds as are necessary to complete the school year ending in the fiscal year and for prior fiscal year adjustments.

(2) Funds are provided for local education program enhancements to meet educational needs as identified by the school district, including alternative education programs.

(3) Allocations for the 2001-02 school year shall be at a maximum annual rate of \$18.48 per full-time equivalent student (~~and \$18.48 per full-time equivalent student for the 2002-03 school year~~). Allocations shall be made on the monthly apportionment payment schedule provided in RCW 28A.510.250 and shall be based on school district annual average full-time equivalent enrollment in grades kindergarten through twelve: PROVIDED, That for school districts enrolling not more than one hundred average annual full-time equivalent students, and for small school plants within any school district designated as remote and necessary schools, the allocations shall be as follows:

(a) Enrollment of not more than sixty average annual full-time equivalent students in grades kindergarten through six shall generate funding based on sixty full-time equivalent students;

(b) Enrollment of not more than twenty average annual full-time equivalent students in grades seven and eight shall generate funding based on twenty full-time equivalent students; and

(c) Enrollment of not more than sixty average annual full-time equivalent students in grades nine through twelve shall generate funding based on sixty full-time equivalent students.

(4) Funding provided pursuant to this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder.

(5) The superintendent shall not allocate up to one-fourth of a district's funds under this section if:

(a) The district is not maximizing federal matching funds for medical services provided through special education programs, pursuant to RCW 74.09.5241 through 74.09.5256 (Title XIX funding); or

(b) The district is not in compliance in filing truancy petitions as required under chapter 312, Laws of 1995 and RCW 28A.225.030.

NEW SECTION. **Sec. 517.** A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—STATE FLEXIBLE EDUCATION FUNDS

General Fund—State Appropriation (FY 2003) \$ 20,612,000

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

(1) State flexible education funds for the 2002-03 school year shall be allocated at a maximum rate of \$21.55 per full-time equivalent student in grades K-12. For the purpose of this section, "FTE student" refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year. The funds shall be distributed to school districts at ten percent per month for the months of September through June.

(2) Funds are provided for local education program enhancements to improve student learning as identified by each school district, including the following programs: Paraprofessional training; mentor/beginning teacher assistance; principal assessment and mentorships; superintendent and principal internships; school safety; truancy; contracting with educational centers; and complex needs.

(3) Funds provided under this section shall not be used for salary increases or additional compensation for existing teaching duties.

(4) Funding provided under this section does not fall within the definition of basic education for purposes of Article IX of the state Constitution.

Sec. 518. 2001 2nd sp.s. c 7 s 519 (uncodified) is amended to read as follows:

FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STUDENT ACHIEVEMENT PROGRAM

Student Achievement Fund—State

Appropriation (FY 2002)	\$	((184,232,000))
		<u>180,837,000</u>
Student Achievement Fund—State		
Appropriation (FY 2003)	\$	((209,068,000))
		<u>210,312,000</u>
TOTAL APPROPRIATION	\$	((393,300,000))
		<u>391,149,000</u>

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

(1) The appropriation is allocated for the following uses as specified in chapter 28A.505 RCW as amended by chapter 3, Laws of 2001 (Initiative Measure No. 728):

(a) To reduce class size by hiring certificated elementary classroom teachers in grades K-4 and paying nonemployee-related costs associated with those new teachers;

(b) To make selected reductions in class size in grades 5-12, such as small high school writing classes;

(c) To provide extended learning opportunities to improve student academic achievement in grades K-12, including, but not limited to, extended school year, extended school day, before-and-after-school programs, special tutoring programs, weekend school programs, summer school, and all-day kindergarten;

(d) To provide additional professional development for educators including additional paid time for curriculum and lesson redesign and alignment, training to ensure that instruction is aligned with state standards and student needs, reimbursement for higher education costs related to enhancing teaching skills and knowledge, and mentoring programs to match teachers with skilled, master teachers. The funding shall not be used for salary increases or additional compensation for existing teaching duties, but may be used for extended year and extend day teaching contracts;

(e) To provide early assistance for children who need prekindergarten support in order to be successful in school; or

(f) To provide improvements or additions to school building facilities which are directly related to the class size reductions and extended learning opportunities under (a) through (c) of this subsection.

(2) Funding for school district student achievement programs shall be allocated at a maximum rate of ((~~\$193.92~~)) \$190.19 per FTE student for the 2001-02 school year and ((~~\$220.59~~)) \$219.84 per FTE student for the 2002-03 school year. For the purposes of this section and in accordance with ((~~RCW 84.52.068~~)) RCW 84.52.068, FTE student refers to the annual average full-time equivalent enrollment of the school district in grades kindergarten through twelve for the prior school year.

(3) The office of the superintendent of public instruction shall distribute ten percent of the annual allocation to districts each month for the months of September through June.

Sec. 519. 2001 2nd sp.s. c 7 s 521 (uncodified) is amended to read as follows:

FOR THE STATE BOARD OF EDUCATION

Education Savings Account—State

Appropriation	\$	((36,720,000))
		<u>36,656,000</u>

Education Construction Account—State

Appropriation	\$	((154,500,000))
		<u>111,800,000</u>

TOTAL APPROPRIATION	\$	((191,220,000))
		<u>148,456,000</u>

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

(1) ~~((18,000,000))~~ \$17,936,000 in fiscal year 2002 and \$18,720,000 in fiscal year 2003 of the education savings account appropriation shall be deposited in the common school construction account.

(2) ~~((154,500,000))~~ \$111,800,000 of the education construction account appropriation shall be deposited in the common school construction account.

**PART VI
HIGHER EDUCATION**

Sec. 601. 2001 2nd sp.s. c 7 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act are subject to the following conditions and limitations:

(1) "Institutions" means the institutions of higher education receiving appropriations under sections 603 through 609 of this act.

(2)(a) The salary increases provided or referenced in this subsection shall be the only allowable salary increases provided at institutions of higher education, excluding increases associated with normally occurring promotions and increases related to faculty and professional staff retention, and excluding increases associated with employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015 and 28B.50.874(1).

(b) Each institution of higher education shall provide to each classified staff employee as defined by the office of financial management, except for classified staff at the technical colleges, a salary increase of 3.7 percent on July 1, 2001. The technical colleges shall provide to classified employees under chapter 41.56 RCW an average salary increase of 3.7 percent on July 1, 2001, and 3.6 percent on July 1, 2002. ~~((Funds are also provided for salary increases for all classified employees on July 1, 2002, in a percentage amount to be determined by the 2002 legislature and, in the case of technical college classified staff, consistent with the provisions of Initiative 732:))~~

(c) Each institution of higher education, except for the community and technical colleges, shall provide to state-funded instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants as classified by the office of financial management, and all other state-funded nonclassified staff, including those employees under RCW 28B.16.015, an average salary increase of 3.7 percent on July 1, 2001. ~~((Funds are also provided for salary increases for these employee groups on July 1, 2002, in a percentage amount to be determined by the 2002 legislature.))~~ Each institution may provide the same average increases to similar positions that are not state-funded.

(d) The community and technical colleges shall provide to academic employees, ~~((exempt professional staff, and academic administrators))~~ as defined in RCW 28B.52.020 pursuant to the provisions of Initiative Measure No. 732, an average salary increase of 3.7 percent on July 1, 2001, and 3.6 percent on July 1, 2002. ~~((Funds are also provided for salary increases for these groups on July 1, 2002, in a percentage amount to be determined by the 2002 legislature and, in the case of community college academic employees and technical college employees, consistent with the provisions of Initiative 732.))~~

(e) For employees under the jurisdiction of chapter 41.56 RCW pursuant to the provisions of RCW 28B.16.015 and 28B.50.874(1), distribution of the salary increases will be in accordance with the applicable collective bargaining agreement. However, an increase shall not be provided to any classified employee whose salary is above the approved salary range maximum for the class to which the employee's position is allocated.

(f) Each institution of higher education receiving appropriations for salary increases under sections 604 through 609 of this act may provide additional salary increases from other sources to instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Any additional salary increase granted under the authority of this subsection (2)(f) shall not be included in an institution's salary base for future state funding. It is the intent of the legislature that general fund—state support for an institution shall not increase during the current or any future biennium as a result of any salary increases authorized under this subsection (2)(f) or under rights granted to award additional compensation with local, nonstate funds under the collective bargaining provisions of Second Substitute House Bill No. 2403 (faculty collective bargaining) or Engrossed Second Substitute House Bill No. 2540 (collective bargaining/University of Washington).

(g) To collect consistent data for use by the legislature, the office of financial management, and other state agencies for policy and planning purposes, institutions of higher education shall report personnel data to be used in the department of

personnel's human resource data warehouse in compliance with uniform reporting procedures established by the department of personnel.

(h) Specific salary increases authorized in sections 603 through 609 of this act are in addition to any salary increase provided in this subsection.

(3) The tuition fees, as defined in chapter 28B.15 RCW, charged to full-time students at the state's institutions of higher education for the 2001-02 and 2002-03 academic years, other than the summer term, may be adjusted by the governing boards of the state universities, regional universities, The Evergreen State College, and the state board for community and technical colleges as provided in this subsection.

(a) For the 2001-02 academic year, the governing boards and the state board may implement an increase no greater than six and seven-tenths percent over tuition fees charged to full-time students for the 2000-01 academic year.

(b)(i) For the 2002-03 academic year, the governing boards ((and the state board may implement an increase no greater than six and one-tenth percent over the tuition fees charged to full-time students for the 2001-02 academic year.)) of the state universities may implement an increase no greater than sixteen percent over tuition fees charged to full-time resident undergraduate students for the 2001-02 academic year.

(ii) For the 2002-03 academic year, the governing boards of the regional universities and The Evergreen State College may implement an increase no greater than fourteen percent over tuition fees charged to full-time resident undergraduate students for the 2001-02 academic year.

(iii) For the 2002-03 academic year, the state board for community and technical colleges may implement an increase no greater than twelve percent over tuition fees charged to full-time resident undergraduate students for the 2001-02 academic year.

(iv) Pursuant to RCW 43.135.055, for the 2002-03 academic year, the governing boards of the state universities, the regional universities, The Evergreen State College, and the state board for community and technical colleges may implement an increase in excess of the fiscal growth factor over tuition fees charged to nonresident undergraduate students for the 2001-02 academic year.

(c) For the 2001-02 academic year, the governing boards may implement an increase for law and graduate business programs no greater than twelve percent over tuition fees charged to law and graduate business students for the 2000-01 academic year, except as provided in (e) of this subsection.

(d) Pursuant to RCW 43.135.055, for the 2002-03 academic year, the governing boards ((may implement an increase for law and graduate business programs no greater than twelve percent over tuition fees charged to law and graduate business students for the 2001-02 academic year, except as provided in (f) of this subsection.)) of the state universities, the regional universities, and The Evergreen State College may implement an increase in excess of the fiscal growth

factor over tuition fees charged to graduate, law, and professional students for the 2001-02 academic year.

(e) For the 2001-02 academic year, the governing boards of the University of Washington may implement an increase for graduate business programs no greater than 15 percent over tuition fees charged to graduate business students for the 2000-01 academic year.

~~(f) ((For the 2002-03 academic year, the governing boards of the University of Washington may implement an increase for graduate business programs no greater than 20 percent over tuition fees charged to graduate business students for the 2001-02 academic year.~~

~~—(g)) (i) For the 2001-02 ((and the 2002-03)) academic year((s)), the state board for community and technical colleges may increase tuition fees differentially based on student credit hour load, but the average percentage increase for students taking fifteen or fewer credits shall not exceed ((the limits in subsection (3)(a) and (b) of this section)) twelve percent.~~

~~(ii) For the 2002-03 academic year, the state board for community and technical colleges may increase tuition fees differentially at their discretion.~~

~~((h)) (g) For the 2001-03 biennium, the governing boards and the state board may adjust full-time operating fees for factors that may include time of day and day of week, as well as delivery method and campus, to encourage full use of the state's educational facilities and resources.~~

~~((i)) (h) The tuition increases adopted under (a), (b), ((g)) (f), and ((h)) (g) of this subsection need not apply uniformly across student categories as defined in chapter 28B.15 RCW so long as the increase for each student category does not exceed the percentages specified in this subsection.~~

~~(4) ((In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards and the state board may waive all or a portion of the operating fees for any student.)) For the remainder of the 2001-03 biennium, the governing boards and the state board are encouraged to reduce waiver activity in recognition of the need to retain available resources to preserve the educational quality of higher education institutions. State general fund appropriations shall not be provided to replace tuition and fee revenue foregone as a result of waivers granted under ((this subsection)) authority of RCW 28B.15.915.~~

(5) Pursuant to RCW ~~((43-15-055))~~ 43.135.055, institutions of higher education receiving appropriations under sections 603 through 609 of this act are authorized to increase summer term tuition in excess of the fiscal growth factor during the 2001-03 biennium. Tuition levels increased pursuant to this subsection shall not exceed the per credit hour rate calculated from the academic year tuition levels adopted under this act.

(6) Community colleges may increase services and activities fee charges in excess of the fiscal growth factor up to the maximum level authorized by the state board for community and technical colleges.

(7) Each institution receiving appropriations under sections 604 through 609 of this act shall submit a biennial plan to achieve measurable and specific improvements each academic year as part of a continuing effort to make meaningful and substantial progress towards the achievement of long-term performance goals. The plans, to be prepared at the direction of the higher education coordinating board, shall be submitted by August 15, 2001. The higher education coordinating board shall set biennial performance targets for each institution and shall review actual achievements annually. Institutions shall track their actual performance on the statewide measures as well as faculty productivity, the goals and targets for which may be unique to each institution. A report on progress towards statewide and institution-specific goals, with recommendations for the ensuing biennium, shall be submitted to the fiscal and higher education committees of the legislature by November 15, 2003.

(8) The state board for community and technical colleges shall develop a biennial plan to achieve measurable and specific improvements each academic year as part of a continuing effort to make meaningful and substantial progress to achieve long-term performance goals. The board shall set biennial performance targets for each college or district, where appropriate, and shall review actual achievements annually. Colleges shall track their actual performance on the statewide measures. A report on progress towards the statewide goals, with recommendations for the ensuing biennium, shall be submitted to the fiscal and higher education committees of the legislature by November 15, 2003.

Sec. 602. 2001 2nd sp.s. c 7 s 602 (uncodified) is amended to read as follows:

The appropriations in sections 603 through 609 of this act provide state general fund support for full-time equivalent student enrollments at each institution of higher education. Listed below are the annual full-time equivalent student enrollments by institutions assumed in this act.

	2001-2002 Annual Average	2002-2003 Annual Average
University of Washington		
Main campus	32,321	32,427
Bothell branch	1,169	1,235
Tacoma branch	1,330	1,484
Washington State University		
Main campus	17,332	17,332
Spokane branch	551	593
Tri-Cities branch	616	616
Vancouver branch	1,071	1,153
Central Washington University	7,470	7,470
Eastern Washington University	7,933	8,017

The Evergreen State College	3,754	3,837
Western Washington University	10,976	11,126
State Board for Community and Technical Colleges	125,082	((126,902))
		<u>128,222</u>

When allocating newly budgeted enrollments, each institution of higher education shall give priority to high demand fields, including but not limited to technology, health professions, and education. At the end of each fiscal year, each institution of higher education and the state board for community and technical colleges shall submit a report to the higher education coordinating board detailing how newly budgeted enrollments have been allocated.

Sec. 603. 2001 2nd sp.s. c 7 s 603 (uncodified) is amended to read as follows:
FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

General Fund—State Appropriation (FY 2002) \$	((514,399,000))
	<u>514,141,000</u>
General Fund—State Appropriation (FY 2003) \$	((543,731,000))
	<u>533,500,000</u>
General Fund—Federal Appropriation \$	11,404,000
<u>Administrative Contingency Account—State</u>	
<u>Appropriation</u> \$	<u>2,600,000</u>
<u>College Faculty Awards Trust Account—State</u>	
<u>Appropriation</u> \$	<u>2,500,000</u>
Education Savings Account—State	
Appropriation \$	4,500,000
TOTAL APPROPRIATION \$	((1,074,034,000))
	<u>1,068,645,000</u>

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

(1) The technical colleges may increase tuition and fees in excess of the fiscal growth factor to conform with the percentage increase in community college operating fees.

(2) \$2,475,000 of the general fund—state appropriation for fiscal year 2002 and \$5,025,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to increase salaries and related benefits for part-time faculty. The board shall report by December 1 of each fiscal year to the office of financial management and legislative fiscal and higher education committees on (a) the distribution of state funds; (b) wage adjustments for part-time faculty; and (c) progress to achieve the long-term performance targets for each district, with respect to use of part-time faculty, pursuant to the faculty mix study conducted under section 603, chapter 309, Laws of 1999.

(3) \$1,155,000 of the general fund—state appropriation for fiscal year 2002 and ~~((~~\$2,345,000~~))~~ \$1,155,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for faculty salary increments and associated benefits and may be used in combination with salary and benefit savings from faculty turnover to provide faculty salary increments and associated benefits. To the extent general salary increase funding is used to pay faculty increments, the general salary increase shall be reduced by the same amount.

(4) \$1,000,000 of the general fund—state appropriation for fiscal year 2002 and \$1,000,000 of the general fund—state appropriation for fiscal year 2003 are provided for a program to fund the start-up of new community and technical college programs in rural counties as defined under RCW 43.160.020(12) and in communities impacted by business closures and job reductions. Successful proposals must respond to local economic development strategies and must include a plan to continue programs developed with this funding.

(5) \$326,000 of the general fund—state appropriation for fiscal year 2002 and \$640,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for allocation to twelve college districts identified in (a) through (l) of this subsection to prepare students for transfer to the state technology institute at the Tacoma branch campus of the University of Washington. The appropriations in this section are intended to supplement, not supplant, general enrollment allocations by the board to the districts under (a) through (l) of this subsection:

- (a) Bates Technical College;
- (b) Bellevue Community College;
- (c) Centralia Community College;
- (d) Clover Park Community College;
- (e) Grays Harbor Community College;
- (f) Green River Community College;
- (g) Highline Community College;
- (h) Tacoma Community College;
- (i) Olympic Community College;
- (j) Pierce District;
- (k) Seattle District; and
- (l) South Puget Sound Community College.

(6) \$28,761,000 of the general fund—state appropriation for fiscal year 2002 ~~((and \$28,761,000))~~, \$32,761,000 of the general fund—state appropriation for fiscal year 2003, and the entire administrative contingency account appropriation are provided solely as special funds for training and related support services, including financial aid, as specified in chapter 226, Laws of 1993 (employment and training for unemployed workers).

(a) Funding is provided to support up to 7,200 full-time equivalent students in ~~((each))~~ fiscal year 2002 and up to 8,520 full-time equivalent students in fiscal year 2003.

(b) In directing these resources during the 2001-03 biennium, the state board for community and technical colleges shall give considerable attention to the permanent dislocation of workers from industries facing rapidly rising energy costs, such as direct service industries.

(7) \$1,000,000 of the general fund—state appropriation for fiscal year 2002 and \$1,000,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for tuition support for students enrolled in work-based learning programs.

(8) \$567,000 of the general fund—state appropriation for fiscal year 2002 and \$568,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for administration and customized training contracts through the job skills program.

(9) \$50,000 of the general fund—state appropriation for fiscal year 2002 and \$50,000 of the general fund—state appropriation for fiscal year 2003 are solely for higher education student child care matching grants under chapter 28B.135 RCW.

(10) \$212,000 of the general fund—state appropriation for fiscal year 2002 and \$212,000 of the general fund—state appropriation for fiscal year 2003 are provided for allocation to Olympic college. The college shall contract with accredited baccalaureate institution(s) to bring a program of upper-division courses to Bremerton. Funds provided are sufficient to support at least 30 additional annual full-time equivalent students. The state board for community and technical colleges shall report to the office of financial management and the fiscal and higher education committees of the legislature on the implementation of this subsection by December 1st of each fiscal year.

(11) The entire education savings account appropriation is provided solely to support the development of a multicollge student-centered online service center for distance learners, including self-service internet applications and staff support 24 hours per day. Moneys may be allocated by the office of financial management upon certification that sufficient cash is available beyond the appropriations made for the 2001-03 biennium for the purposes of common school construction.

(12) \$9,500,000 of the general fund—state appropriation for fiscal year 2003 and the entire college faculty awards trust account appropriation are provided solely for the purposes of the settlement costs of *Mader v. State* litigation regarding retirement contributions on behalf of part-time faculty.

*Sec. 604. 2001 2nd sp.s. c 7 s 604 (uncodified) is amended to read as follows:

FOR UNIVERSITY OF WASHINGTON	
General Fund—State Appropriation (FY 2002) \$	((345,974,000))
	<u>345,904,000</u>
General Fund—State Appropriation (FY 2003) \$	((361,114,000))
	<u>336,544,000</u>
Death Investigations Account—State	
Appropriation \$	((259,000))

	<u>258,000</u>
University of Washington Building Account—	
State Appropriation \$	1,103,000
Accident Account—State Appropriation \$	((5,891,000))
	<u>5,881,000</u>
Medical Aid Account—State Appropriation \$	((5,945,000))
	<u>5,937,000</u>
TOTAL APPROPRIATION \$	((720,286,000))
	<u>695,627,000</u>

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

(1) The university may reallocate 10 percent of newly budgeted enrollments to campuses other than as specified by the legislature in section 602 of this act in order to focus on high demand areas. The university shall report the details of these reallocations to the office of financial management and the fiscal and higher education committees of the legislature for monitoring purposes by the 10th day of the academic quarter that follows the reallocation actions. The report shall provide details of undergraduate and graduate enrollments at the main campus and each of the branch campuses.

(2) \$2,000,000 of the general fund—state appropriation for fiscal year 2002 and \$2,000,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to create a state resource for technology education in the form of an institute located at the University of Washington, Tacoma. It is the intent of the legislature that at least ninety-nine of the full-time equivalent enrollments allocated to the university’s Tacoma branch campus for the 2002-03 academic year may be used to establish the technology institute. The university will expand undergraduate and graduate degree programs meeting regional technology needs including, but not limited to, computing and software systems. As a condition of these appropriations:

(a) The university will work with the state board for community and technical colleges, or individual colleges where necessary, to establish articulation agreements in addition to the existing associate of arts and associate of science transfer degrees. Such agreements shall improve the transferability of students and in particular, students with substantial applied information technology credits.

(b) The university will establish performance measures for recruiting, retaining and graduating students, including nontraditional students, and report back to the governor and legislature by September 2002 as to its progress and future steps.

(3) \$150,000 of the general fund—state appropriation for fiscal year 2002 and \$150,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for research faculty clusters in the advanced technology initiative program.

(4) The department of environmental health shall report to the legislature the historical, current, and anticipated use of funds provided from the accident and

medical aid accounts. The report shall be submitted prior to the convening of the 2002 legislative session.

(5) (~~(\$259,000)~~) \$258,000 of the death investigations account appropriation is provided solely for the forensic pathologist fellowship program.

(6) \$150,000 of the general fund—state appropriation for fiscal year 2002 and \$150,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of the Puget Sound work plan and agency action item UW-01.

(7) \$75,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the Olympic natural resource center.

(8) \$50,000 of the general fund—state appropriations are provided solely for the school of medicine to conduct a survey designed to evaluate characteristics, factors and probable causes for the high incidence of multiple sclerosis cases in Washington state.

(9) \$1,103,000 of the University of Washington building account—state appropriation is provided solely for the repair and reconstruction of the Urban Horticulture Center (Merrill Hall).

(10) \$2,774,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

*Sec. 604 was partially vetoed. See message at end of chapter.

*Sec. 605. 2001 2nd sp.s. c 7 s 605 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE UNIVERSITY

General Fund—State Appropriation (FY 2002) \$	((201,416,000))
	<u>201,362,000</u>
General Fund—State Appropriation (FY 2003) \$	((209,939,000))
	<u>195,533,000</u>
TOTAL APPROPRIATION \$	((411,355,000))
	<u>396,895,000</u>

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

(1) The university may reallocate 10 percent of newly budgeted enrollments to campuses other than specified by the legislature in section 602 of this act in order to focus on high demand areas. The university will report the details of these reallocations to the office of financial management and the fiscal and higher education committees of the legislature for monitoring purposes by the 10th day

of the academic quarter that follows the reallocation actions. The report will provide details of undergraduate and graduate enrollments at the main campus and each of the branch campuses.

(2) \$150,000 of the general fund—state appropriation for fiscal year 2002 and \$150,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for research faculty clusters in the advanced technology initiative program.

(3) \$165,000 of the general fund—state appropriation for fiscal year 2002 and \$166,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the implementation of the Puget Sound work plan and agency action item WSU-01.

(4) \$1,726,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

*Sec. 605 was partially vetoed. See message at end of chapter.

*Sec. 606. 2001 2nd sp.s. c 7 s 606 (uncodified) is amended to read as follows:

FOR EASTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2002) \$	((45,532,000))
	45,517,000
General Fund—State Appropriation (FY 2003) \$	((47,382,000))
	44,174,000
TOTAL APPROPRIATION \$	((92,914,000))
	89,691,000

The appropriations in this section are subject to the following conditions and limitations: \$450,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

*Sec. 606 was partially vetoed. See message at end of chapter.

*Sec. 607. 2001 2nd sp.s. c 7 s 607 (uncodified) is amended to read as follows:

FOR CENTRAL WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2002) \$	((44,164,000))
	44,147,000

General Fund—State Appropriation (FY 2003) \$	((44,976,000))
	<u>42,149,000</u>
TOTAL APPROPRIATION \$	((89,140,000))
	<u>86,296,000</u>

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

(1) \$700,000 of the general fund—state appropriation for fiscal year 2002 ((is)) and \$350,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the development and implementation of the university’s enrollment stabilization recovery and growth plan. The university shall report back to the fiscal committees of the legislature, the office of financial management, and the higher education coordinating board at the end of each fiscal year with details of its actions and progress.

(2) \$374,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

*Sec. 607 was partially vetoed. See message at end of chapter.

*Sec. 608. 2001 2nd sp.s. c 7 s 608 (uncodified) is amended to read as follows:

FOR THE EVERGREEN STATE COLLEGE

General Fund—State Appropriation (FY 2002) \$	((25,334,000))
	<u>25,325,000</u>
General Fund—State Appropriation (FY 2003) \$	((26,260,000))
	<u>24,474,000</u>
TOTAL APPROPRIATION \$	((51,594,000))
	<u>49,799,000</u>

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

(1) \$226,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

~~(2)~~ \$75,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the institute for public policy to complete studies of services described in section 202(1), chapter 1, Laws of 2000 2nd sp. sess.

~~((2))~~ (3) \$11,000 of the general fund—state appropriation for fiscal year 2002 and \$54,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the institute for public policy to conduct an outcome evaluation pursuant to Substitute Senate Bill No. 5416 (drug-affected infants). The institute shall provide a report to the fiscal, health, and human services committees of the legislature by December 1, 2003. If the bill is not enacted by June 30, 2001, the amounts provided in this subsection shall be used to evaluate outcomes across state health and social service pilot projects and other national models involving women who have given birth to a drug-affected infant, comparing gains in positive birth outcomes for resources invested, in which case the institute's findings and recommendations will be provided by November 15, 2002.

~~((3))~~ (4) \$11,000 of the general fund—state appropriation for fiscal year 2002 and \$33,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the institute for public policy to evaluate partnership grant programs for alternative teacher certification pursuant to Engrossed Second Substitute Senate Bill No. 5695. An interim report shall be provided to the fiscal and education committees of the legislature by December 1, 2002, and a final report by December 1, 2004.

~~((4))~~ (5) \$60,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the institute for public policy to examine options for revising the state's funding formula for the learning assistance program to enhance accountability for school performance in meeting education reform goals. The institute shall submit its report to the appropriate legislative fiscal and policy committees by June 30, 2002.

~~((5))~~ (6) \$50,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the institute for public policy to study the prevalence and needs of families who are raising related children. The study shall compare services and policies of Washington state with other states that have a high rate of kinship care placements in lieu of foster care placements. The study shall identify possible changes in services and policies that are likely to increase appropriate kinship care placements. A report shall be provided to the fiscal and human services committees of the legislature by June 1, 2002.

~~((6))~~ (7) \$35,000 of the general fund—state appropriation for fiscal year 2002 and \$15,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the institute for public policy to examine various educational delivery models for providing services and education for students through the Washington state school for the deaf. The institute's report, in conjunction with the capacity planning study from the joint legislative audit and review committee, shall be submitted to the fiscal committees of the legislature by September 30, 2002.

~~((7))~~ (8) \$30,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the institute for public policy to examine the structure, policies, and recent experience in states where welfare recipients may attend college full-time as their required TANF work activity. The institute will provide findings and recommend how Washington could consider adding this feature in a targeted, cost-neutral manner that would complement the present-day WorkFirst efforts and caseload. The institute shall provide a report to the human services, higher education, and fiscal committees of the legislature by November 15, 2001.

~~((8))~~ (9) \$75,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the institute for public policy to research and evaluate strategies for constraining the growth in state health expenditures. Specific research topics, approaches, and timelines shall be identified in consultation with the fiscal committees of the legislature.

~~((9))~~ (10) \$100,000 of the general fund—state appropriation for fiscal year 2002 is provided solely for the institute for public policy to conduct a comprehensive review of the costs and benefits of existing juvenile crime prevention and intervention programs. This evaluation shall also consider what changes could result in more cost-effective and efficient funding for juvenile crime prevention and intervention programs presently supported with state funds. The institute for public policy shall report its findings and recommendations to the appropriate legislative fiscal and policy committees by October 1, 2002.

(11) \$60,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for the institute for public policy to conduct the studies listed in (a), (b), (c), and (d) of this subsection.

(a) The institute for public policy shall conduct a review of branch campuses of the state's higher education research universities. The study shall examine: (a) The original mission of branch campuses; (b) the extent branch campuses are meeting their original mission; and (c) the extent key factors that led to the creation of branch campuses have changed, including student demographics, demand for and availability of upper division higher education, and local or state labor markets. The study shall also include a range of policy options the legislature could consider regarding branch campuses. The institute shall submit an interim report by December 12, 2002, and a final report by June 30, 2003, to appropriate legislative committees.

(b) The institute for public policy shall conduct a study to review the mission and operations of the higher education coordinating board. The study shall include evaluation of the board's role and current practices in policy setting, evaluation, review and approval of higher education programs and budgets, and administration of financial aid programs. In conducting the study, the institute shall work with legislative staff of the house of representatives and senate. The institute shall submit its findings to the higher education and fiscal committees of the legislature by December 12, 2002.

(c) The institute for public policy shall conduct a study to research at-risk youth programs. The institutc for public policy shall conduct the necessary research in order to recommend to the legislature the criteria, processes, and institutional arrangements under which proven best practices could be identified, the reductions in the state justice system caseloads estimated, and the unit cost and total cost savings estimated for the intervention and prevention programs focused on youth at high risk for involvement with the juvenile and adult justice systems. The development of criteria, processes, and institutional arrangements for the limited purposes of this study shall not be construed to define best practices for all programs. The institute for public policy shall report its findings and recommendations to the appropriate committees of the legislature by December 12, 2002.

(d) The institute for public policy shall carry out the research tasks assigned to it in Second Substitute House Bill No. 2338 or Substitute Senate Bill No. 6361 (drug offender sentencing). The board may adjust reporting dates based on available data and required analysis.

*Sec. 608 was partially vetoed. See message at end of chapter.

*Sec. 609. 2001 2nd sp.s. c 7 s 609 (uncodified) is amended to read as follows:

FOR WESTERN WASHINGTON UNIVERSITY

General Fund—State Appropriation (FY 2002) \$	((59,755,000))
	<u>59,732,000</u>
General Fund—State Appropriation (FY 2003) \$	((62,881,000))
	<u>58,418,000</u>
TOTAL APPROPRIATION \$	((122,636,000))
	<u>118,150,000</u>

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

(1) \$753,000 of the general fund—state appropriation for fiscal year 2002 and ((~~\$1,032,000~~)) \$980,400 of the general fund—state appropriation for fiscal year 2003 are provided solely for the operations of the North Snohomish, Island, Skagit (NSIS) higher education consortium.

(2) \$450,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for competitively offered recruitment and retention salary adjustments for instructional and research faculty, exempt professional staff, academic administrators, academic librarians, counselors, teaching and research assistants, as classified by the office of financial management, and all other nonclassified staff, but not including employees under RCW 28B.16.015. Tuition revenues may be expended in addition to those required by this section to further provide recruitment and retention salary adjustments.

*Sec. 609 was partially vetoed. See message at end of chapter.

Sec. 610. 2001 2nd sp.s. c 7 s 610 (uncodified) is amended to read as follows:

FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION

General Fund—State Appropriation (FY 2002)	\$	2,345,000
General Fund—State Appropriation (FY 2003)	\$	((2,408,000))
		<u>2,288,000</u>
General Fund—Federal Appropriation	\$	636,000
TOTAL APPROPRIATION	\$	((5,389,000))
		<u>5,269,000</u>

The appropriations in this section are provided to carry out the policy coordination, planning, studies and administrative functions of the board and are subject to the following conditions and limitations:

(1) \$150,000 of the general fund—state appropriation for fiscal year 2002 and \$150,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to continue the teacher training pilot program pursuant to chapter 177, Laws of 1999.

(2) \$105,000 of the general fund—state appropriation for fiscal year 2002 and \$245,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to continue a demonstration project to improve rural access to post-secondary education by bringing distance learning technologies into Jefferson county.

Sec. 611. 2001 2nd sp.s. c 7 s 611 (uncodified) is amended to read as follows:
FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS

General Fund—State Appropriation (FY 2002)	\$	123,645,000
General Fund—State Appropriation (FY 2003)	\$	((136,205,000))
		<u>135,880,000</u>
General Fund—Federal Appropriation	\$	7,511,000
Advanced College Tuition Payment Program Account— State Appropriation	\$	((3,604,000))
		<u>1,803,000</u>
TOTAL APPROPRIATION	\$	((270,965,000))
		<u>268,839,000</u>

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

(1) \$534,000 of the general fund—state appropriation for fiscal year 2002 and \$529,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the displaced homemakers program.

(2) \$234,000 of the general fund—state appropriation for fiscal year 2002 and \$240,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the western interstate commission for higher education.

(3) \$1,000,000 of the general fund—state appropriation for fiscal year 2002 and \$1,000,000 of the general fund—state appropriation for fiscal year 2003 are

provided solely for the health professional conditional scholarship and loan program under chapter 28B.115 RCW. This amount shall be deposited to the health professional loan repayment and scholarship trust fund to carry out the purposes of the program.

(4) \$1,000,000 of the general fund—state appropriations is provided solely to continue a demonstration project that enables classified public K-12 employees to become future teachers, subject to the following conditions and limitations:

(a) Within available funds, the board may renew and offer conditional scholarships of up to \$4,000 per year for full or part-time studies that may be forgiven in exchange for teaching service in Washington's public K-12 schools. In selecting loan recipients, the board shall take into account the applicant's demonstrated academic ability and commitment to serve as a teacher within the state of Washington.

(b) Loans shall be forgiven at the rate of one year of loan for two years of teaching service. Recipients who teach in geographic or subject-matter shortage areas, as specified by the office of the superintendent for public instruction, may have their loans forgiven at the rate of one year of loan for one year of teaching service;

(c) Recipients who fail to fulfill the required teaching service shall be required to repay the conditional loan with interest. The board shall define the terms for repayment, including applicable interest rates, fees and deferments, and may adopt other rules as necessary to implement this demonstration project.

(d) The board may deposit this appropriation and all collections into the student loan account authorized in RCW 28B.102.060.

(e) The board will provide the legislature and governor with findings about the impact of this demonstration project on persons entering the teaching profession in shortage areas by no later than January of 2002.

(5) \$75,000 of the general fund—state appropriation for fiscal year 2002 and \$75,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for higher education student child care matching grants under chapter 28B.135 RCW.

(6) \$25,000 of the general fund—state appropriation for fiscal year 2002 and \$25,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the benefit of students who participate in college assistance migrant programs (CAMP) operating in Washington state. To ensure timely state aid, the board may establish a date after which no additional grants would be available for the 2001-02 and 2002-03 academic years. The board shall disperse grants in equal amounts to eligible post-secondary institutions so that state money in all cases supplements federal CAMP awards.

(7) \$120,156,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$133,965,000)~~) \$133,761,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for student financial aid, including all administrative costs. Of these amounts:

(a) \$90,566,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$102,667,000)~~) \$104,913,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the state need grant program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state need grant program may be transferred to the state work study program. For the remainder of the 2001-03 biennium, the higher education coordinating board shall limit or suspend growth to individual state need grant levels to the extent necessary to ensure that students who meet the financial eligibility requirements of fifty-five percent of median family income are served;

(b) \$16,340,000 of the general fund—state appropriation for fiscal year 2002 and \$17,360,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the state work study program. After April 1 of each fiscal year, up to one percent of the annual appropriation for the state work study program may be transferred to the state need grant program. Four percent of the general fund—state amount in this subsection for fiscal year 2003 may be expended for state work study program administration;

(c) \$2,920,000 of the general fund—state appropriation for fiscal year 2002 and \$2,920,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for educational opportunity grants. The board may deposit sufficient funds from its appropriation into the state education trust fund as established in RCW 28B.10.821 to provide a one-year renewal of the grant for each new recipient of the educational opportunity grant award. For the purpose of establishing eligibility for the equal opportunity grant program for placebound students under RCW 28B.101.020, Thurston county lies within the branch campus service area of the Tacoma branch campus of the University of Washington;

(d) A maximum of 2.1 percent of the general fund—state appropriation for fiscal year 2002 and (~~(2.1)~~) 1.8 percent of the general fund—state appropriation for fiscal year 2003 may be expended for financial aid administration, excluding the 4 percent state work study program administrative allowance provision;

(e) \$1,241,000 of the general fund—state appropriation for fiscal year 2002 and \$1,428,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to implement the Washington scholars program. Any Washington scholars program moneys not awarded by April 1st of each year may be transferred by the board to the Washington award for vocational excellence;

(f) \$588,000 of the general fund—state appropriation for fiscal year 2002 and \$589,000 of the general fund—state appropriation for fiscal year 2003 are provided solely to implement Washington award for vocational excellence program. Any Washington award for vocational program moneys not awarded by April 1st of each year may be transferred by the board to the Washington scholars program;

(g) \$251,000 of the general fund—state appropriation for fiscal year 2002 and \$251,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for community scholarship matching grants of \$2,000 each. Of the amounts provided, no more than \$5,200 each year is for the administration of the

community scholarship matching grant program. To be eligible for the matching grant, a nonprofit community organization organized under section 501(c)(3) of the internal revenue code must demonstrate that it has raised \$2,000 in new moneys for college scholarships after the effective date of this act. An organization may receive more than one \$2,000 matching grant and preference shall be given to organizations affiliated with the citizens' scholarship foundation; and

(h) \$8,250,000 of the general fund—state appropriation for fiscal year 2002 and (~~(\$8,750,000)~~) \$6,300,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the Washington promise scholarship program subject to the following conditions and limitations:

(i) Within available funds, the higher education coordinating board shall award scholarships for use at accredited institutions of higher education in the state of Washington to as many students as possible from among those qualifying under (iv) of this subsection. Each qualifying student will receive two consecutive annual installments, the value of each not to exceed the full-time annual resident tuition rates charged by community colleges. Scholarships awarded to new recipients for the 2002-03 academic year shall not exceed one-thousand dollars per student.

(ii) Of the amounts provided, no more than \$260,000 (~~(each year is)~~) in fiscal year 2002 and no more than \$250,000 in fiscal year 2003 are for administration of the Washington promise scholarship program.

(iii) Other than funds provided for program administration, the higher education coordinating board shall deposit all money received for the program in the Washington promise scholarship account, a nonappropriated fund in the custody of the state treasurer. The account shall be self-sustaining and consist of funds appropriated by the legislature for these scholarships, private contributions, and receipts from refunds of tuition and fees.

(iv) Scholarships in the (~~(2001-03 biennium)~~) 2001-02 academic year shall be awarded to students (~~(who graduate from high school or its equivalent)~~) whose family income does not exceed one hundred thirty-five percent of the state's median family income, adjusted for family size, if they meet any of the following academic criteria:

(A) Students graduating from public and approved private high schools under chapter 28A.195 RCW must be in the top fifteen percent of their graduating class, or must equal or exceed a cumulative scholastic assessment test score of 1200 on their first attempt;

(B) Students participating in home-based instruction as provided in chapter 28A.200 RCW must equal or exceed a cumulative scholastic assessment test score of 1200 on their first attempt.

(v) For students eligible under (iv) of this subsection, the superintendent of public instruction shall provide the higher education coordinating board with the names, addresses, and unique numeric identifiers of students in the top fifteen percent or who meet the scholastic aptitude test score requirement, as appropriate

in each of the respective high school senior or home based instruction classes in Washington state. This shall be provided no later than October 1 of each year.

(vi) Scholarships awarded under this section may only be used at accredited institutions of higher education in the state of Washington for college-related expenses, including but not limited to, tuition, room and board, books, materials, and transportation. The Washington promise scholarship award shall not supplant other scholarship awards, financial aid, or tax programs related to postsecondary education. Scholarships may not be transferred or refunded to students.

(vii) The higher education coordinating board shall evaluate the impact and effectiveness of the Washington promise scholarship program. The evaluation shall include, but not be limited to: (A) An analysis of other financial assistance promise scholarship recipients are receiving through other federal, state, and institutional programs, including grants, work study, tuition waivers, tax credits, and loan programs; (B) an analysis of whether the implementation of the promise scholarship program has had an impact on student indebtedness; and (C) an evaluation of what types of students are successfully completing high school but do not have the financial ability to attend college because they cannot obtain financial aid or the financial aid is insufficient. The board shall report its findings to the governor and the legislature by December 1, 2002.

(viii) The higher education coordinating board may adopt rules as necessary to implement this program.

Sec. 612. 2001 2nd sp.s. c 7 s 612 (uncodified) is amended to read as follows:

FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD

General Fund—State Appropriation (FY 2002)	\$	1,762,000
General Fund—State Appropriation (FY 2003)	\$	((1,720,000))
		<u>1,633,000</u>
General Fund—Federal Appropriation	\$	44,987,000
TOTAL APPROPRIATION	\$	((48,469,000))
		<u>48,382,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$500,000 of the general fund—state appropriation for fiscal year 2002 and \$500,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for the operations and development of the inland northwest technology education center (INTEC) as a regional resource and model for the rapid deployment of skilled workers trained in the latest technologies for Washington. The board shall serve as an advisor to and fiscal agent for INTEC, and will report back to the governor and legislature by September 2002 as to the progress and future steps for INTEC as this new public-private partnership evolves.

Sec. 613. 2001 2nd sp.s. c 7 s 613 (uncodified) is amended to read as follows:

FOR THE SPOKANE INTERCOLLEGIATE RESEARCH AND TECHNOLOGY INSTITUTE

General Fund—State Appropriation (FY 2002) \$	((1,500,000))
	<u>1,499,000</u>
General Fund—State Appropriation (FY 2003) \$	((1,500,000))
	<u>1,397,000</u>
TOTAL APPROPRIATION \$	((3,000,000))
	<u>2,896,000</u>

Sec. 614. 2001 2nd sp.s. c 7 s 614 (uncodified) is amended to read as follows:

FOR WASHINGTON STATE LIBRARY

General Fund—State Appropriation (FY 2002) \$	8,791,000
General Fund—State Appropriation (FY 2003) \$	((8,786,000))
	<u>3,209,000</u>
General Fund—Federal Appropriation \$	6,976,000
TOTAL APPROPRIATION \$	((24,553,000))
	<u>18,976,000</u>

The appropriations in this section are subject to the following conditions and limitations: At least \$2,700,000 shall be expended for a contract with the Seattle public library for library services for the Washington book and braille library.

Sec. 615. 2001 2nd sp.s. c 7 s 615 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE ARTS COMMISSION

General Fund—State Appropriation (FY 2002) \$	2,873,000
General Fund—State Appropriation (FY 2003) \$	((2,874,000))
	<u>2,788,000</u>
General Fund—Federal Appropriation \$	1,000,000
<u>General Fund—Private/Local Appropriation</u> \$	<u>3,000</u>
TOTAL APPROPRIATION \$	((6,747,000))
	<u>6,664,000</u>

Sec. 616. 2001 2nd sp.s. c 7 s 616 (uncodified) is amended to read as follows:

FOR THE WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2002) \$	2,899,000
General Fund—State Appropriation (FY 2003) \$	((3,129,000))
	<u>3,035,000</u>
TOTAL APPROPRIATION \$	((6,028,000))
	<u>5,934,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$90,000 of the general fund—state appropriation for fiscal year 2002 and \$285,000 of the general fund—state appropriation for fiscal year 2003 are provided solely for activities related to the Lewis and Clark Bicentennial.

Sec. 617. 2001 2nd sp.s. c 7 s 617 (uncodified) is amended to read as follows:

FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY

General Fund—State Appropriation (FY 2002) \$	1,674,000
General Fund—State Appropriation (FY 2003) \$	((1,535,000))

	<u>1,489,000</u>
TOTAL APPROPRIATION \$	((3,209,000))
	<u>3,163,000</u>

Sec. 618. 2001 2nd sp.s. c 7 s 618 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE BLIND

General Fund—State Appropriation (FY 2002) \$	4,520,000
General Fund—State Appropriation (FY 2003) \$	((4,591,000))
	<u>4,654,000</u>
General Fund—Private/Local Appropriation \$	((1,173,000))
	<u>1,254,000</u>
TOTAL APPROPRIATION \$	((10,284,000))
	<u>10,428,000</u>

Sec. 619. 2001 2nd sp.s. c 7 s 619 (uncodified) is amended to read as follows:

FOR THE STATE SCHOOL FOR THE DEAF

General Fund—State Appropriation (FY 2002) \$	7,395,000
General Fund—State Appropriation (FY 2003) \$	((7,439,000))
	<u>7,751,000</u>
General Fund—Private/Local Appropriation \$	232,000
TOTAL APPROPRIATION \$	((15,066,000))
	<u>15,378,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$250,000 of the general fund—state appropriation for fiscal year 2003 is provided solely for additional staffing and other student safety measures at the school. The school will hire six additional staff, increase staff communications and accessibility, and implement a training program to enhance staff members’ abilities to work with at-risk youth.

**PART VII
SPECIAL APPROPRIATIONS**

Sec. 701. 2001 2nd sp.s. c 7 s 701 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,
AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:
FOR DEBT SUBJECT TO THE DEBT LIMIT**

General Fund—State Appropriation (FY 2002) \$	((629,097,000))
	<u>576,097,000</u>
General Fund—State Appropriation (FY 2003) \$	((567,290,000))
	<u>622,540,000</u>
State Building Construction Account—State Appropriation \$	((11,351,000))
	<u>7,999,000</u>
Debt-Limit Reimbursable Bond Retire Account— State Appropriation \$	2,591,000

State Taxable Building Construction Account—

State Appropriation	\$	496,000
TOTAL APPROPRIATION	\$	((1,210,329,000)) 1,209,723,000

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriations are for deposit into the debt-limit general fund bond retirement account. The appropriation for fiscal year 2002 shall be deposited in the debt-limit general fund bond retirement account by June 30, 2002.

Sec. 702. 2001 2nd sp.s. c 7 s 702 (uncodified) is amended to read as follows:
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,
 AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:
 FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED BY
 ENTERPRISE ACTIVITIES**

State Convention and Trade Center Account—

State Appropriation	\$	((39,950,000)) 29,249,000
Accident Account—State Appropriation	\$	((5,590,000)) 5,096,000
Medical Aid Account—State Appropriation	\$	((5,590,000)) 5,096,000
TOTAL APPROPRIATION	\$	((51,130,000)) 39,441,000

Sec. 703. 2001 2nd sp.s. c 7 s 703 (uncodified) is amended to read as follows:
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST,
 AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES:
 FOR GENERAL OBLIGATION DEBT TO BE REIMBURSED AS
 PRESCRIBED BY STATUTE**

General Fund—State Appropriation (FY 2002)	\$	24,542,000
General Fund—State Appropriation (FY 2003)	\$	26,706,000
Capitol Historic District Construction Account—State Appropriation	\$	454,000
Higher Education Construction Account—State Appropriation	\$	((815,000)) 499,000
State Higher Education Construction Account— State Appropriation	\$	((348,000)) 50,000
State Vehicle Parking Account—State Appropriation	\$	((35,000)) 100,000
Nondebt-Limit Reimbursable Bond Retirement Account—		

State Appropriation	\$	128,043,000
TOTAL APPROPRIATION	\$	((180,943,000))
		<u>180,394,000</u>

The appropriations in this section are subject to the following conditions and limitations: The general fund appropriation is for deposit into the nondebt-limit general fund bond retirement account.

Sec. 704. 2001 2nd sp.s. c 7 s 704 (uncodified) is amended to read as follows:

FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR BOND SALE EXPENSES

General Fund—State Appropriation (FY 2002)	\$	567,000
General Fund—State Appropriation (FY 2003)	\$	((568,000))
		<u>658,000</u>
Higher Education Construction Account—State Appropriation	\$	77,000
State Higher Education Construction Account— State Appropriation	\$	42,000
State Building Construction Account—State Appropriation	\$	1,488,000
State Vehicle Parking Account—State Appropriation	\$	((5,000))
		<u>10,000</u>
Capitol Historic District Construction Account—State Appropriation	\$	130,000
<u>State Taxable Building Construction Account— State Appropriation</u>	\$	<u>50,000</u>
TOTAL APPROPRIATION	\$	((2,877,000))
		<u>3,022,000</u>

Sec. 705. 2001 2nd sp.s. c 7 s 706 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY POOL. The sum of ((~~three million dollars~~)) \$39,487,000, or so much thereof as may be available on June 30, 2001, from the total amount of unspent fiscal year 2001 fire contingency funding in the disaster response account and the moneys appropriated to the disaster response account in section 707 of this act, is appropriated for the purpose of making allocations to the military department for fire mobilizations costs or to the department of natural resources for fire suppression costs. Of this amount, \$27,513,000 shall be provided to the department of natural resources, \$135,000 shall be provided to the state parks and recreation commission, and \$60,000 shall be provided to the department of fish and wildlife, for costs of fire suppression during the 2001 fire season.

NEW SECTION. Sec. 706. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

REVOLVING FUND REDUCTIONS. (1) The 2001-2003 supplemental appropriations in this act reflect reduced appropriations from the specified funds and accounts in the following amounts:

Administrative Hearings Revolving Account	\$	330,000
Legal Services Revolving Account	\$	1,543,000
Data Processing Revolving Account (DIS 419-6) . . .	\$	1,995,000
Data Processing Revolving Account (DIS 419-1) . . .	\$	96,000
Data Processing Revolving Account (OFM 419-6) . .	\$	339,000
Data Processing Revolving Account (DOP 419-6) . .	\$	545,000
Department of Personnel Service Account (DOP) . . .	\$	262,000
Department of Personnel Service Account (Sec State)	\$	18,000
Department of Retirement Systems Expense Account	\$	732,000
General Administration Services Account (422-1) . .	\$	642,000
General Administration Services Account (422-6) . .	\$	1,302,000
Auditing Services Revolving Account	\$	347,000
Archives & Records Management Account	\$	177,000

(2) The director of financial management shall distribute these revolving fund savings by uniformly reducing state agencies' allotments accordingly. The distribution of the savings shall reduce general fund—state allotments for fiscal year 2003 by \$3,743,000 and other fund allotments by \$4,241,000. The amount of the allotment reduction shall be placed in reserve status.

NEW SECTION. Sec. 707. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

EQUIPMENT PURCHASE REDUCTION. The director of financial management shall reduce allotments from general fund—state appropriations in this act for the 2001-2003 biennium by \$2,300,000 to reflect a freeze on state agency equipment purchases for the remainder of the 2001-03 biennium. The amount of the allotment reduction shall be placed in reserve status. Equipment purchase reductions for the house of representatives and senate are made in sections 101 and 102 of this act and not in this section.

NEW SECTION. Sec. 708. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

EMPLOYEE TRAVEL REDUCTION. The director of financial management shall reduce allotments from general fund—state appropriations in this act for the 2001-2003 biennium by \$3,000,000 to reflect the elimination of nonessential travel by state employees and officials. The amount of the allotment reduction shall be placed in reserve status. Employee travel reductions for the house of representatives and senate are made in sections 101 and 102 of this act and not in this section.

NEW SECTION. **Sec. 709.** A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

CONTINGENCY POOL. (1) With the prior approval of the office of financial management, agencies may reduce allotments for fiscal year 2002 to reflect all or a portion of, and not to exceed, the administrative, travel, and equipment reductions and efficiency savings enacted in this 2002 supplemental appropriations act as an alternative to allotment reductions for fiscal year 2003.

(2) The sum of one million five hundred thousand dollars from the general fund—state for fiscal year 2003 is appropriated to the governor for providing assistance to state agencies that are unable to effectively absorb the administrative, travel, and equipment reductions and efficiency savings enacted in this 2002 supplemental appropriations act. Allocations to state agencies from this appropriation shall be reported to the legislative fiscal committees by the office of financial management within five days of the allocation.

Sec. 710. 2001 2nd sp.s. c 7 s 713 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—DIGITAL GOVERNMENT REVOLVING ACCOUNT

General Fund—State Appropriation (FY 2002) \$	2,050,000
General Fund—State Appropriation (FY 2003) \$	((2,050,000))
	<u>1,050,000</u>
TOTAL APPROPRIATION \$	((4,100,000))
	<u>3,100,000</u>

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are provided solely for deposit in the digital government revolving account.

Sec. 711. 2001 2nd sp.s. c 7 s 716 (uncodified) is amended to read as follows:

FOR THE GOVERNOR—COMPENSATION—INSURANCE BENEFITS

General Fund—State Appropriation (FY 2002) \$	7,218,000
General Fund—State Appropriation (FY 2003) \$	((19,947,000))
	<u>14,803,000</u>
General Fund—Federal Appropriation \$	((8,692,000))
	<u>7,374,000</u>
General Fund—Private/Local Appropriation \$	((456,000))
	<u>331,000</u>
Salary and Insurance Increase Revolving Account Appropriation \$	((19,468,000))
	<u>15,969,000</u>
TOTAL APPROPRIATION \$	((55,781,000))
	<u>45,695,000</u>

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

(1)(a) The monthly employer funding rate for insurance benefit premiums, public employees' benefits board administration, and the uniform medical plan, shall not exceed \$457.29 per eligible employee for fiscal year 2002, and (~~(\$497.69)~~) \$482.38 for fiscal year 2003.

(b) Within the rates in (a) of this subsection, \$2.02 per eligible employee shall be included in the employer funding rate for fiscal year 2002, and \$4.10 per eligible employee shall be included in the employer funding rate for fiscal year 2003, solely to increase life insurance coverage in accordance with a court approved settlement in *Burbage et al. v. State of Washington* (Thurston county superior court cause no. 94-2-02560-8).

(c) In order to achieve the level of funding provided for health benefits, the public employees' benefits board shall require any or all of the following: Employee premium copayments, increases in point-of-service cost sharing, the implementation of managed competition, or make other changes to benefits consistent with RCW 41.05.065.

(d) The health care authority shall deposit any moneys received on behalf of the uniform medical plan as a result of rebates on prescription drugs, audits of hospitals, subrogation payments, or any other moneys recovered as a result of prior uniform medical plan claims payments, into the public employees' and retirees' insurance account to be used for insurance benefits. Such receipts shall not be used for administrative expenditures.

(2) To facilitate the transfer of moneys from dedicated funds and accounts, the state treasurer is directed to transfer sufficient moneys from each dedicated fund or account to the special fund salary and insurance contribution increase revolving fund in accordance with schedules provided by the office of financial management.

(3) The health care authority, subject to the approval of the public employees' benefits board, shall provide subsidies for health benefit premiums to eligible retired or disabled public employees and school district employees who are eligible for parts A and B of medicare, pursuant to RCW 41.05.085. From January 1, 2002, through December 31, 2002, the subsidy shall be \$85.84. Starting January 1, 2003, the subsidy shall be (~~(\$102.55)~~) \$92.74 per month.

(4) Technical colleges, school districts, and educational service districts shall remit to the health care authority for deposit into the public employees' and retirees' insurance account established in RCW 41.05.120 the following amounts:

(a) For each full-time employee, \$32.41 per month beginning September 1, 2001, and (~~(\$37.48)~~) \$36.36 beginning September 1, 2002;

(b) For each part-time employee who, at the time of the remittance, is employed in an eligible position as defined in RCW 41.32.010 or 41.40.010 and is eligible for employer fringe benefit contributions for basic benefits, \$32.41 each month beginning September 1, 2001, and (~~(\$37.48)~~) \$36.36 beginning September 1, 2002, prorated by the proportion of employer fringe benefit contributions for a full-time employee that the part-time employee receives.

The remittance requirements specified in this subsection shall not apply to employees of a technical college, school district, or educational service district who purchase insurance benefits through contracts with the health care authority.

(5) The salary and insurance increase revolving account appropriation includes amounts sufficient to fund health benefits for ferry workers at the premium levels specified in subsection (1) of this section, consistent with the 2001-2003 transportation appropriations act.

Sec. 712. 2001 2nd sp.s. c 7 s 717 (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 for the law enforcement officers’ and firefighters’ retirement system shall be made on a monthly basis beginning July 1, 2001, consistent with chapter 41.45 RCW, and the appropriations for the judges and judicial retirement systems shall be made on a quarterly basis consistent with chapters 2.10 and 2.12 RCW.

(1) There is appropriated for state contributions to the law enforcement officers’ and fire fighters’ retirement system:

General Fund—State Appropriation (FY 2002) \$	(15,552,000)
	<u>15,437,000</u>
General Fund—State Appropriation (FY 2003) \$	(16,668,000)
	<u>16,208,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The appropriations include reductions to reflect savings resulting from the implementation of state pension contribution rates effective (~~July 1, 2001, as provided in Senate Bill No. 6167 or House Bill No. 2236~~) April 1, 2002, as provided in House Bill No. 2782.

(2) There is appropriated for contributions to the judicial retirement system:

General Fund—State Appropriation (FY 2002) \$	6,000,000
General Fund—State Appropriation (FY 2003) \$	6,000,000

(3) There is appropriated for contributions to the judges retirement system:

General Fund—State Appropriation (FY 2002) \$	250,000
General Fund—State Appropriation (FY 2003) \$	250,000
TOTAL APPROPRIATION \$	(44,720,000)
	<u>44,145,000</u>

NEW SECTION. Sec. 713. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—PENSION SAVINGS. The office of financial management shall reduce allotments from the appropriations for agencies of the state by \$1,208,000 from the general fund—state fiscal year 2002 appropriations, \$4,929,000 from the general fund—state fiscal year 2003 appropriations, \$1,606,000 from the general fund—federal 2001-03

appropriations, \$148,000 from the general fund—private/local 2001-03 appropriations, and \$4,326,000 from other funds 2001-03 appropriations to reflect savings from pension contribution rate reductions, effective April 1, 2002, as provided in House Bill No. 2782.

Sec. 714. 2001 2nd sp.s. c 7 s 719 (uncodified) is amended to read as follows:

SALARY COST OF LIVING ADJUSTMENT

General Fund—State Appropriation (FY 2002) \$	41,712,000
General Fund—State Appropriation (FY 2003) \$	((73,358,000))
	<u>44,469,000</u>
General Fund—Federal Appropriation \$	((37,955,000))
	<u>25,629,000</u>
General Fund—Private/Local Appropriation \$	((2,325,000))
	<u>1,876,000</u>
Salary and Insurance Increase Revolving Account	
Appropriation \$	((92,156,000))
	<u>68,224,000</u>
TOTAL APPROPRIATION \$	((247,506,000))
	<u>181,910,000</u>

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the following conditions and limitations:

(1) In addition to the purposes set forth in subsections (2) and (3) of this section, appropriations in this section are provided solely for a 3.7 percent salary increase effective July 1, 2001, for all classified employees, except the certificated employees of the state schools for the deaf and blind, and including those employees in the Washington management service, and exempt employees under the jurisdiction of the personnel resources board. ~~((Funds are also provided for salary increases for classified employees on July 1, 2002, in a percentage amount to be determined by the 2002 legislature.))~~

(2) The appropriations in this section are sufficient to fund a 3.7 percent salary increase effective July 1, 2001, for general government, legislative, and judicial employees exempt from merit system rules whose maximum salaries are not set by the commission on salaries for elected officials. ~~((Funds are also provided for salary increases for these employees on July 1, 2002, in a percentage amount to be determined by the 2002 legislature.))~~

(3) The salary and insurance increase revolving account appropriation in this section includes funds sufficient to fund a 3.7 percent salary increase effective July 1, 2001, for ferry workers consistent with the 2001-03 transportation appropriations act. ~~((Funds are also provided for salary increases for ferry workers on July 1, 2002, in a percentage amount to be determined by the 2002 legislature.))~~

(4)(a) No salary increase may be paid under this section to any person whose salary has been Y-rated pursuant to rules adopted by the personnel resources board.

(b) The average salary increases paid under this section to agency officials whose maximum salaries are established by the committee on agency official salaries shall not exceed the average increases provided by subsection (2) of this section.

Sec. 715. 2001 2nd sp.s. c 7 s 720 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—EDUCATION TECHNOLOGY REVOLVING ACCOUNT

General Fund—State Appropriation (FY 2002)	\$	11,264,000
((General Fund—State Appropriation (FY 2003)	\$	11,264,000
TOTAL APPROPRIATION	\$	22,528,000))

The appropriation((s)) in this section ((are)) is subject to the following conditions and limitations:

(1) The appropriation((s)) in this section ((are)) is for appropriation to the education technology revolving account for the purpose of covering operational and transport costs incurred by the K-20 educational network program in providing telecommunication services to network participants.

(2) Use of these moneys to connect public libraries are limited to public libraries which have in place a policy of internet safety applied to publicly available computers with internet access via the K-20 educational network that protects against access to visual depictions that are (a) obscene under chapter 9.68 RCW; or (b) sexual exploitation of children under chapter 9.68A RCW.

Sec. 716. 2001 2nd sp.s. c 7 s 722 (uncodified) is amended to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—COMPENSATION ACTIONS OF PERSONNEL RESOURCES BOARD

General Fund—State Appropriation (FY 2002)	\$	((9,179,000))
		<u>9,183,000</u>
General Fund—State Appropriation (FY 2003)	\$	((18,359,000))
		<u>18,369,000</u>
General Fund—Federal Appropriation	\$	10,392,000
Salary and Insurance Increase Revolving Account		
Appropriation	\$	((2,735,000))
		<u>2,809,000</u>
TOTAL APPROPRIATION	\$	((40,665,000))
		<u>40,753,000</u>

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the following conditions and limitations: Funding is provided to implement the salary increase recommendations of the Washington personnel resources board for the priority classes identified through item 8B pursuant to RCW 41.06.152. The salary increases shall be effective January 1, 2002.

NEW SECTION. Sec. 717. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE OFFICE OF FINANCIAL MANAGEMENT—STATE EMPLOYEE HEALTH BENEFITS

General Fund—State Appropriation (FY 2003) \$	6,000,000
General Fund—Federal Appropriation (FY 2003) . . \$	2,000,000
TOTAL APPROPRIATION \$	8,000,000

The appropriations in this section shall be expended solely for the purposes designated in this section and are subject to the following conditions and limitations: Funding is provided solely for state employee health benefits.

Sec. 718. 2001 2nd sp.s. c 7 s 723 (uncodified) is amended to read as follows:

INCENTIVE SAVINGS—FY 2002.

The sum of one hundred million dollars or so much thereof as may be available on June 30, 2002, from the total amount of unspent fiscal year 2002 state general fund appropriations is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) Of the total appropriated amount, any amount attributable to unspent general fund—state appropriations in the state need grant program, the state work study program, the Washington scholars program, and the Washington award for vocational excellence program is appropriated to the state financial aid account pursuant to Substitute House Bill No. 2914 (state financial aid account).

(3) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

~~((3))~~ (4) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section, amounts included in allotment reductions in sections 706, 707, 708, and 713 of this act, or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

Sec. 719. 2001 2nd sp.s. c 7 s 724 (uncodified) is amended to read as follows:

INCENTIVE SAVINGS—FY 2003.

The sum of one hundred million dollars or so much thereof as may be available on June 30, 2003, from the total amount of unspent fiscal year 2003 state general fund appropriations is appropriated for the purposes of RCW 43.79.460 in the manner provided in this section.

(1) Of the total appropriated amount, one-half of that portion that is attributable to incentive savings, not to exceed twenty-five million dollars, is appropriated to the savings incentive account for the purpose of improving the quality, efficiency, and effectiveness of agency services, and credited to the agency that generated the savings.

(2) Of the total appropriated amount, any amount attributable to unspent general fund—state appropriations in the state need grant program, the state work

study program, the Washington scholars program, and the Washington award for vocational excellence program is appropriated to the state financial aid account pursuant to Substitute House Bill No. 2914 (state financial aid account).

(3) The remainder of the total amount, not to exceed seventy-five million dollars, is appropriated to the education savings account.

((3)) (4) For purposes of this section, the total amount of unspent state general fund appropriations does not include the appropriations made in this section, amounts included in allotment reductions in sections 706, 707, 708, and 713 of this act, or any amounts included in across-the-board allotment reductions under RCW 43.88.110.

NEW SECTION. Sec. 720. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—
EXTRAORDINARY CRIMINAL JUSTICE COSTS**

Public Safety and Education Account—State

Appropriation \$ 394,000

The appropriation in this section is subject to the following conditions and limitations: The director of financial management shall distribute the appropriation to the following counties in the amounts designated for extraordinary criminal justice costs:

Franklin \$ 312,000
Stevens \$ 82,000

NEW SECTION. Sec. 721. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC
DEVELOPMENT—COUNTY ASSISTANCE**

General Fund—State Appropriation (FY 2003) \$ 5,000,000

The appropriation in this section is subject to the following conditions and limitations: The director of community, trade, and economic development shall distribute the appropriation in this section to the following counties in the amounts designated:

Adams \$ 51,000
Asotin \$ 366,000
Benton \$ 68,000
Chelan \$ 250,000
Columbia \$ 516,000
Douglas \$ 212,000
Ferry \$ 358,000
Franklin \$ 75,000
Garfield \$ 524,000
Lincoln \$ 121,000
Mason \$ 353,000

Okanogan	\$ 495,000
Pacific	\$ 122,000
Pend Oreille	\$ 179,000
Stevens	\$ 382,000
Wahkiakum	\$ 391,000
Walla Walla	\$ 195,000
Yakima	\$ 342,000
TOTAL	\$ 5,000,000

Sec. 722. 2001 2nd sp.s. c 7 s 727 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—COUNTY CORPORATION ASSISTANCE

General Fund—State Appropriation (FY 2002)	\$ 24,410,534
((General Fund—State Appropriation (FY 2003)	\$ 25,137,970
TOTAL APPROPRIATION	\$ 49,548,504))

The appropriation((s)) in this section ((are)) is subject to the following conditions and limitations:

(1)(a) The department shall withhold distributions under subsection (2) of this section to any county that has not paid its fifty percent share of the employer contribution on behalf of superior court judges for insurance and health care plans and federal social security and medicare and medical aid benefits for the fiscal year. As required by Article IV, section 13 of the state Constitution and 1996 Attorney General’s Opinion No. 2, it is the intent of the legislature that the costs of these employer contributions shall be shared equally between the state and county or counties in which the judges serve.

(b) After receiving written notification from the office of the administrator for the courts that a county has paid its fifty percent share as required under (a) of this subsection, the department shall distribute the amount designated for the fiscal year under subsection (2) of this section.

(2) The director of community, trade, and economic development shall distribute the appropriations to the following counties in the amounts designated:

County	FY 2002	((FY 2003 Biennium))
Adams	290,303	((295,993 586,296))
Asotin	422,074	((434,598 856,672))
Benton	966,480	((999,163 1,965,643))
Chelan	637,688	((651,982 1,289,670))
Clallam	444,419	((454,391 898,810))
Clark	641,571	((678,997 1,320,568))
Columbia	561,888	((572,901 1,134,789))
Cowlitz	771,879	((795,808 1,567,687))
Douglas	505,585	((528,184 1,033,769))
Ferry	389,909	((397,551 787,460))
Franklin	442,624	((464,818 906,642))
Garfield	571,303	((582,501 1,153,804))
Grant	579,631	((604,872 1,183,703))

Grays Harbor	540,315	((550,905 1,091,220))
Island	483,589	((503,205 986,794))
Jefferson	239,914	((249,924 489,838))
King	2,661,862	((2,720,716 5,382,578))
Kitsap	469,992	((480,178 950,170))
Kititas	366,971	((383,827 749,998))
Klickitat	204,726	((217,555 422,281))
Lewis	583,702	((598,004 1,181,706))
Lincoln	290,754	((302,151 592,905))
Mason	905,060	((930,959 1,836,019))
Okanogan	548,848	((560,332 1,109,180))
Pacific	344,047	((350,790 694,837))
Pend Oreille	280,342	((285,837 566,179))
Pierce	1,246,530	((1,284,087 2,530,617))
San Juan	85,712	((91,859 177,571))
Skagit	911,491	((944,914 1,856,405))
Skamania	172,840	((176,228 349,068))
Snohomish	1,017,209	((1,058,571 2,075,780))
Spokane	804,124	((823,359 1,627,483))
Stevens	811,482	((835,598 1,647,080))
Thurston	1,031,888	((1,061,579 2,093,467))
Wahkiakum	507,528	((517,476 1,025,004))
Walla Walla	241,341	((247,105 488,446))
Whatcom	408,025	((429,869 837,094))
Whitman	134,870	((138,191 273,061))
Yakima	1,892,018	((1,936,192 3,828,210))
TOTAL APPROPRIATIONS	24,410,534	((25,137,970 49,548,504))

**Sec. 723. 2001 2nd sp.s. c 7 s 728 (uncodified) is amended to read as follows:
FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC
DEVELOPMENT—MUNICIPAL CORPORATION ASSISTANCE**

General Fund—State Appropriation (FY 2002) \$	45,884,610
((General Fund—State Appropriation (FY 2003) \$	47,251,839
————— TOTAL APPROPRIATION \$	93,136,449))

The appropriation((s)) in this section ((are)) is subject to the following conditions and limitations:

(1) The director of community, trade, and economic development shall distribute the appropriation to the following cities and municipalities in the amounts designated:

City	FY 2002	((FY 2003 Biennium)) ((2001-03))
Aberdeen	119,986	((123,562 243,548))
Airway Heights	111,259	((114,575 225,834))
Albion	66,339	((68,316 134,655))
Algona	32,672	((33,646 66,318))
A'mira	12,519	((12,892 25,411))
Anacortes	70,930	((73,044 143,974))
Arlington	42,344	((43,606 85,950))

Asotin	57,623	((59,340 116,963))
Auburn	192,405	((198,139 398,544))
Bainbridge Island	293,851	((302,608 596,459))
Battle Ground	118,303	((121,828 240,131))
Beaux Arts	1,784	((1,837 3,621))
Bellevue	524,203	((539,824 1,064,027))
Bellingham	369,121	((380,121 749,242))
Benton City	111,380	((114,699 226,079))
Bingen	6,602	((6,799 13,401))
Black Diamond	254,698	((262,288 516,986))
Blaine	20,853	((21,474 42,327))
Bonney Lake	158,738	((163,468 322,206))
Bothell	137,270	((141,361 278,631))
Bremerton	214,020	((220,398 434,418))
Brewster	11,250	((11,585 22,835))
Bridgeport	188,216	((193,825 382,041))
Brier	532,011	((547,865 1,079,876))
Buckley	68,227	((70,260 138,487))
Bucoda	52,876	((54,452 107,328))
Burien	284,265	((292,736 577,801))
Burlington	27,407	((28,224 55,631))
Camas	53,654	((55,253 108,907))
Carbonado	56,785	((58,477 115,262))
Carnation	9,593	((9,879 19,472))
Cashmere	120,801	((124,401 245,202))
Castle Rock	29,980	((30,873 60,853))
Cathlamet	6,265	((6,452 12,717))
Centralia	101,426	((104,448 205,874))
Chehalis	34,601	((35,632 70,233))
Chelan	19,515	((20,097 39,612))
Cheney	314,316	((323,683 637,999))
Chewelah	66,731	((68,720 135,451))
Clarkston	83,910	((86,411 170,321))
Cle Elum	8,692	((8,951 17,643))
Clyde Hill	136,778	((140,854 277,632))
Colfax	74,672	((76,897 151,569))
College Place	526,480	((542,169 1,068,649))
Colton	27,473	((28,292 55,765))
Colville	23,389	((24,086 47,475))
Conconully	13,675	((14,083 27,758))
Concrete	27,006	((27,811 54,817))
Connell	164,950	((169,866 334,816))
Cosmopolis	15,395	((15,854 31,249))
Coulee City	2,804	((2,888 5,692))
Coulee Dam	61,408	((63,238 124,646))
Coupeville	7,708	((7,938 15,646))
Covington	690,851	((711,438 1,402,289))
Creston	12,905	((13,290 26,195))
Cusick	9,341	((9,619 18,968))
Darrington	59,838	((61,621 121,459))
Davenport	66,350	((68,327 134,677))
Dayton	92,685	((95,447 188,132))
Deer Park	16,059	((16,538 32,597))

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Des Moines	1,482,120	((1,526,287 3,008,407))
Dupont	8,109	((8,351 16,466))
Duvall	66,128	((68,099 134,227))
East Wenatchee	30,678	((31,592 62,270))
Eatonville	8,848	((9,112 17,966))
Edgewood	901,766	((928,639 1,830,405))
Edmonds	456,336	((469,935 926,271))
Electric City	87,243	((89,843 177,086))
Ellensburg	81,982	((84,425 166,407))
Elma	84,676	((87,199 171,875))
Elmer City	29,811	((30,699 60,510))
Endicott	28,758	((29,615 58,373))
Entiat	58,244	((59,980 118,224))
Enumclaw	53,013	((54,593 107,606))
Ephrata	59,987	((61,775 121,762))
Everett	495,428	((510,192 1,005,620))
Everson	67,517	((69,529 137,046))
Fairfield	18,540	((19,092 37,632))
Farmington	12,072	((12,432 24,504))
Federal Way	470,179	((484,190 954,369))
Ferndale	74,669	((76,694 151,563))
Fife	25,411	((26,168 51,579))
Fircrest	386,146	((397,653 783,799))
Forks	110,712	((114,011 224,723))
Friday Harbor	9,791	((10,083 19,874))
Garfield	45,263	((46,612 91,875))
George	19,319	((19,895 39,214))
Gig Harbor	31,615	((32,557 64,172))
Gold Bar	134,531	((138,540 273,071))
Goldendale	49,519	((50,995 100,514))
Grand Coulee	5,805	((5,978 11,783))
Grandview	256,347	((263,986 520,333))
Granger	173,094	((178,252 351,346))
Granite Falls	10,946	((11,272 22,210))
Hamilton	17,437	((17,957 35,394))
Harrah	46,947	((48,346 95,293))
Harrington	18,107	((18,647 36,754))
Hartline	11,392	((11,731 23,123))
Hatton	12,176	((12,539 24,715))
Hoquiam	374,903	((386,075 760,978))
Hunts Point	2,432	((2,504 4,936))
Ilwaco	13,150	((13,542 26,692))
Index	4,181	((4,306 8,487))
Ione	17,566	((18,089 35,655))
Issaquah	50,002	((51,492 101,494))
Kahlotus	20,210	((20,812 41,022))
Kalama	7,892	((8,127 16,019))
Kelso	68,904	((70,957 139,861))
Kenmore	1,099,395	((1,132,157 2,231,552))
Kennewick	293,534	((302,201 595,815))
Kent	360,624	((371,371 731,995))
Kettle Falls	64,422	((66,342 130,764))
Kirkland	221,429	((228,028 449,457))

Kittitas	72,698	((74,864 147,562))
Krupp	4,445	((4,577 9,022))
La Center	34,415	((35,441 69,856))
La Conner	3,817	((3,931 7,740))
La Crosse	20,141	((20,741 40,802))
Lacey	143,243	((147,512 290,755))
Lake Forest Park	897,932	((924,690 1,822,622))
Lake Stevens	142,295	((146,535 288,830))
Lakewood	2,955,109	((3,043,171 5,998,280))
Lamont	7,492	((7,715 15,207))
Langley	5,303	((5,461 10,764))
Latah	11,962	((12,318 24,280))
Leavenworth	12,189	((12,552 24,741))
Lind	2,217	((2,283 4,500))
Long Beach	10,269	((10,575 20,844))
Longview	249,836	((257,281 507,117))
Lyman	16,741	((17,240 33,981))
Lynden	42,717	((43,990 86,707))
Lynnwood	163,579	((168,454 332,033))
Mabton	142,491	((146,737 289,220))
Malden	21,588	((22,231 43,819))
Mansfield	26,744	((27,541 54,285))
Maple Valley	359,478	((370,190 729,660))
Marcus	14,126	((14,547 28,673))
Marysville	102,028	((105,068 207,096))
Mattawa	100,064	((103,046 203,110))
McCleary	105,807	((108,960 214,767))
Medical Lake	114,323	((117,730 232,053))
Medina	14,355	((14,703 29,130))
Mercer Island	383,527	((394,956 778,403))
Mesa	16,835	((17,337 34,172))
Metaline	14,150	((14,572 28,722))
Metaline Falls	7,718	((7,948 15,666))
Mill Creek	174,495	((179,695 354,190))
Millwood	22,619	((23,293 45,912))
Milton	28,030	((28,865 56,895))
Monroe	56,517	((58,201 114,710))
Montesano	60,229	((62,024 122,253))
Morton	5,891	((6,067 11,958))
Moses Lake	105,670	((108,019 214,409))
Mossyrock	16,545	((17,038 33,503))
Mount Vernon	130,780	((134,677 265,457))
Mountlake Terrace	711,188	((732,381 1,443,569))
Moxee	40,448	((41,653 82,101))
Mukilteo	274,482	((282,662 557,144))
Naches	7,632	((7,859 15,491))
Napavine	96,030	((98,892 194,922))
Nespelem	17,614	((18,139 35,753))
Newcastle	290,801	((299,467 590,268))
Newport	13,223	((13,617 26,840))
Nooksack	58,178	((59,912 118,090))
Normandy Park	489,113	((503,689 992,002))
North Bend	20,754	((21,372 42,126))

North Bonneville	30,574	((31,485 62,059))
Northport	23,489	((24,189 47,678))
Oak Harbor	278,157	((286,446 564,603))
Oakesdale	31,060	((31,986 63,046))
Oakville	43,411	((44,705 88,116))
Ocean Shores	64,837	((66,769 131,606))
Odessa	4,721	((4,862 9,583))
Okanogan	12,323	((12,690 25,013))
Olympia	198,476	((204,391 402,867))
Omak	26,117	((26,895 53,012))
Oroville	12,506	((12,879 25,385))
Orting	191,211	((196,909 388,120))
Othello	26,808	((27,607 54,415))
Pacific	69,124	((71,184 140,308))
Palouse	55,067	((56,708 111,775))
Pasco	131,298	((135,211 266,509))
Pateros	28,021	((28,856 56,877))
Pe Ell	54,800	((56,433 111,233))
Pomeroy	52,485	((54,049 106,534))
Port Angeles	124,595	((128,308 252,903))
Port Orchard	41,797	((43,043 84,840))
Port Townsend	47,126	((48,530 95,656))
Poulsbo	31,812	((32,760 64,572))
Prescott	12,349	((12,717 25,066))
Prosser	24,137	((24,856 48,993))
Pullman	584,659	((602,082 1,186,741))
Puyallup	151,732	((156,254 307,986))
Quincy	20,244	((20,847 41,091))
Rainier	111,521	((114,844 226,365))
Raymond	85,311	((87,853 173,164))
Reardan	38,184	((39,322 77,506))
Redmond	215,259	((221,674 436,933))
Renton	235,053	((242,058 477,111))
Republic	25,085	((25,833 50,918))
Richland	441,733	((454,897 896,630))
Ridgefield	55,637	((57,295 112,932))
Ritzville	8,498	((8,751 17,249))
Riverside	27,204	((28,015 55,219))
Rock Island	36,527	((37,616 74,143))
Rockford	18,965	((19,530 38,495))
Rosalia	36,719	((37,813 74,532))
Roslyn	64,571	((66,495 131,066))
Roy	1,709	((1,760 3,469))
Royal City	66,657	((68,643 135,300))
Ruston	50,309	((51,808 102,117))
Sammamish	2,361,433	((2,431,804 4,793,237))
Seatac	132,183	((136,122 268,305))
Seattle	3,189,346	((3,284,389 6,473,735))
Sedro-Woolley	54,896	((56,532 111,428))
Selah	80,704	((83,109 163,813))
Sequim	21,867	((22,519 44,386))
Shelton	58,160	((59,893 118,053))
Shoreline	1,485,138	((1,529,395 3,014,533))

Skykomish	1,417	((1,459 2,876))
Snohomish	40,722	((41,936 82,658))
Snoqualmie	9,587	((9,873 19,460))
Soap Lake	102,783	((105,846 208,629))
South Bend	75,826	((78,086 153,912))
South Cle Elum	46,847	((48,243 95,090))
South Prairie	18,788	((19,348 38,136))
Spangle	1,397	((1,439 2,836))
Spokane	1,116,419	((1,149,688 2,266,107))
Sprague	22,930	((23,613 46,543))
Springdale	11,080	((11,410 22,490))
St. John	4,245	((4,372 8,617))
Stanwood	21,141	((21,771 42,912))
Starbuck	8,949	((9,216 18,165))
Steilacoom	285,807	((294,324 580,131))
Stevenson	11,673	((12,021 23,694))
Sultan	63,199	((65,082 128,281))
Sumas	7,885	((8,120 16,005))
Sumner	41,931	((43,181 85,112))
Sunnyside	70,805	((72,915 143,720))
Tacoma	1,384,646	((1,425,908 2,810,554))
Tekoa	49,373	((50,844 100,217))
Tenino	68,820	((70,871 139,691))
Tieton	74,506	((76,726 151,232))
Toledo	8,084	((8,325 16,409))
Tonasket	5,500	((5,664 11,164))
Toppenish	443,488	((456,704 900,192))
Tukwila	75,320	((77,565 152,885))
Tumwater	61,848	((63,691 125,539))
Twisp	4,793	((4,936 9,729))
Union Gap	27,129	((27,937 55,066))
Uniontown	19,805	((20,295 40,200))
University Place	1,889,912	((1,946,231 3,836,143))
Vader	40,643	((41,854 82,497))
Vancouver	1,177,584	((1,212,676 2,390,260))
Waitsburg	81,097	((83,514 164,611))
Walla Walla	318,679	((328,176 646,855))
Wapato	230,783	((237,660 468,443))
Warden	105,612	((108,759 214,371))
Washougal	177,022	((182,297 359,319))
Washtucna	20,654	((21,269 41,923))
Waterville	72,880	((75,052 147,932))
Waverly	10,256	((10,562 20,818))
Wenatchee	147,602	((152,001 299,603))
West Richland	489,752	((504,347 994,099))
Westport	13,715	((14,124 27,839))
White Salmon	53,746	((55,348 109,094))
Wilbur	23,614	((24,318 47,932))
Wilkeson	18,762	((19,321 38,083))
Wilson Creek	18,403	((18,951 37,354))
Winlock	35,212	((36,261 71,473))
Winthrop	1,756	((1,808 3,564))
Woodinville	56,052	((57,722 113,774))

Woodland	17,960	((18,495 ————— 36,455))
Woodway	12,513	((13,886 ————— 25,399))
Yacolt	36,636	((37,728 ————— 74,364))
Yakima	487,766	((502,301 ————— 990,067))
Yarrow Point	32,121	((33,078 ————— 65,199))
Yelm	15,677	((16,144 ————— 31,824))
Zillah	100,818	((103,822 ————— 204,640))
TOTAL APPROPRIATIONS	45,545,942	((46,903,217 ————— 92,449,159))

(2) \$338,668 for fiscal year 2002 (~~and \$348,622 for fiscal year 2003~~) from this appropriation (~~are~~) is provided solely to address the contingencies listed in this subsection. The department shall distribute the moneys no later than March 31, 2002, (~~and March 31, 2003,~~) for the respective appropriations. Moneys shall be distributed for the following purposes, ranked in order of priority:

- (a) To correct for data errors in the determination of distributions in subsection (1) of this section;
- (b) To distribute to newly qualifying jurisdictions as if the jurisdiction had been in existence prior to November 1999;
- (c) To allocate under emergency situations as determined by the director of the department of community, trade, and economic development in consultation with the association of Washington cities; and
- (d) After April 1 (~~of each year in the fiscal biennium ending June 30, 2003~~), 2001, any moneys remaining from the amounts provided in this subsection shall be prorated and distributed to cities and towns on the basis of the amounts distributed for emergency considerations in November 2000 as provided in section 729, chapter 1, Laws of 2000, 2nd sp. sess.

NEW SECTION. Sec. 724. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR THE DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—MUNICIPAL ASSISTANCE
 General Fund—State Appropriation (FY 2003) \$ 8,000,000

The appropriation in this section is subject to the following conditions and limitations: The director of community, trade, and economic development shall distribute the appropriation in this section to the following cities in the amounts designated:

Airway Heights	\$ 10,000
Albion	\$ 55,000
Almira	\$ 2,000
Asotin	\$ 22,000
Benton City	\$ 35,000
Black Diamond	\$ 42,000
Bridgeport	\$ 155,000
Brier	\$ 294,000
Bucoda	\$ 34,000
Carbonado	\$ 34,000

Cashmere	\$	30,000
Cheney	\$	44,000
Chewelah	\$	3,000
Colfax	\$	2,000
College Place	\$	314,000
Colton	\$	12,000
Conconully	\$	9,000
Concrete	\$	3,000
Connell	\$	62,000
Coulee Dam	\$	13,000
Covington	\$	268,000
Creston	\$	4,000
Cusick	\$	1,000
Darrington	\$	13,000
Davenport	\$	10,000
Dayton	\$	3,000
Des Moines	\$	367,000
Edgewood	\$	622,000
Electric City	\$	61,000
Elma	\$	4,000
Elmer City	\$	25,000
Endicott	\$	24,000
Entiat	\$	23,000
Everson	\$	11,000
Fairfield	\$	3,000
Farmington	\$	6,000
Fircrest	\$	114,000
Forks	\$	11,000
Garfield	\$	28,000
George	\$	5,000
Gold Bar	\$	66,000
Grandview	\$	35,000
Granger	\$	64,000
Hamilton	\$	9,000
Harrah	\$	36,000
Harrington	\$	2,000
Hartline	\$	7,000
Hatton	\$	10,000
Hoquiam	\$	44,000
Index	\$	1,000
Ione	\$	4,000
Kahlotus	\$	13,000
Kenmore	\$	301,000

Kettle Falls	\$	9,000
Kittitas	\$	38,000
Krupp	\$	2,000
Lacrosse	\$	6,000
Lake Forest Park	\$	311,000
Lake Stevens	\$	10,000
Lakewood	\$	808,000
Lamont	\$	6,000
Latah	\$	6,000
Lyman	\$	8,000
Mabton	\$	117,000
Malden	\$	18,000
Mansfield	\$	18,000
Maple Valley	\$	38,000
Marcus	\$	8,000
Mattawa	\$	39,000
McCleary	\$	33,000
Medical Lake	\$	22,000
Mesa	\$	4,000
Metaline	\$	5,000
Metaline Falls	\$	2,000
Mossyrock	\$	1,000
Mountlake Terrace	\$	72,000
Moxee	\$	5,000
Napavine	\$	44,000
Nespelem	\$	15,000
Newcastle	\$	4,000
Nooksack	\$	29,000
Normandy Park	\$	187,000
North Bonneville	\$	4,000
Northport	\$	16,000
Oakesdale	\$	7,000
Oakville	\$	16,000
Orting	\$	27,000
Palouse	\$	17,000
Pateros	\$	1,000
Pe Ell	\$	45,000
Pomeroy	\$	6,000
Prescott	\$	3,000
Pullman	\$	49,000
Rainier	\$	61,000
Raymond	\$	1,000
Reardan	\$	19,000

Republic	\$	3,000
Riverside	\$	16,000
Rock Island	\$	13,000
Rockford	\$	4,000
Rosalia	\$	15,000
Roslyn	\$	26,000
Royal City	\$	27,000
Ruston	\$	18,000
Sammamish	\$	737,000
Shoreline	\$	148,000
Soap Lake	\$	43,000
South Bend	\$	12,000
South Cle Elum	\$	25,000
South Prairie	\$	4,000
Sprague	\$	3,000
Springdale	\$	2,000
Starbuck	\$	6,000
Steilacoom	\$	44,000
Tekoa	\$	11,000
Tenino	\$	15,000
Tieton	\$	28,000
Toppenish	\$	143,000
Uniontown	\$	7,000
University Place	\$	700,000
Vader	\$	28,000
Waitsburg	\$	35,000
Wapato	\$	80,000
Warden	\$	22,000
Washtucna	\$	17,000
Waterville	\$	29,000
Waverly	\$	8,000
West Richland	\$	191,000
White Salmon	\$	2,000
Wilbur	\$	1,000
Wilkeson	\$	2,000
Wilson Creek	\$	8,000
Yacolt	\$	8,000
Zillah	\$	12,000
TOTAL	\$	8,000,000

**Sec. 725. 2001 2nd sp.s. c 7 s 730 (uncodified) is amended to read as follows:*

FOR THE LIABILITY ACCOUNT

General Fund—State Appropriation (FY 2002) \$ 12,000,000

General Fund—State Appropriation (FY 2003)	\$	((6,392,000))
		<u>19,392,000</u>
<i>((State Surplus Assets Reserve Fund—State</i>		
<i>Appropriation</i>	<i>\$</i>	<i>25,000,000))</i>
TOTAL APPROPRIATION	\$	31,392,000

The appropriations in this section are provided solely for deposit in the liability account.

*Sec. 725 was vetoed. See message at end of chapter.

NEW SECTION. Sec. 726. A new section is added to 2001 2nd sp.s. c 7 (uncodified) to read as follows:

FOR SUNDRY CLAIMS. The following sums, or so much thereof as may be necessary, are appropriated from the general fund, unless otherwise indicated, for relief of various individuals, firms, and corporations for sundry claims. These appropriations are to be disbursed on vouchers approved by the director of general administration, except as otherwise provided, as follows:

(1) Reimbursement of criminal defendants acquitted on the basis of self-defense, pursuant to RCW 9A.16.110:

(a) Eythor Westman, claim number SCJ 02-01	\$	7,000
(b) Stacey Julian, claim number SCJ 02-02	\$	59,136
(c) Christopher Denney, claim number SCJ 02-03	\$	11,598
(d) Onofre Vazquez, claim number SCJ 02-04	\$	200
(e) William Voorhies, claim number SCJ 02-05	\$	3,694
(f) Glenn Rowlison, claim number SCJ 02-06	\$	14,395
(g) Frankie Doerr, claim number SCJ 02-07	\$	9,100
(h) Ralph Howard, claim number SCJ 00-09	\$	99,497
(i) Johnny Adams, claim number SCJ 01-17	\$	11,916
(j) Shane Mathus, claim number SCJ 02-08	\$	13,043
(k) Timothy Farnam, claim number SCJ 02-09	\$	21,822
(l) Rebecca Williams, claim number SCJ 02-10	\$	2,241
(m) Stewart Bailey, claim number SCJ 02-11	\$	4,186
(n) Aaron Knaack, claim number SCJ 02-13	\$	4,330
(o) Jacob Clark, claim number SCJ 02-14	\$	11,613

(2) Payment from the state wildlife account for damage to crops by wildlife, pursuant to RCW 77.36.050:

(a) Ronald Palmer, claim number SCG 02-01	\$	1,522
(b) Keith Morris, claim number SCG 02-02	\$	1,315
(c) Edgar Roush, claim number SCG 02-03	\$	1,459

Sec. 727. 2001 2nd sp.s. c 7 s 705 (uncodified) is amended to read as follows:
FOR THE OFFICE OF FINANCIAL MANAGEMENT—EMERGENCY FUND

General Fund—State Appropriation (FY 2002)	\$	850,000
General Fund—State Appropriation (FY 2003)	\$	((850,000))
		<u>8,010,000</u>

TOTAL APPROPRIATION \$ ~~((1,700,000))~~
8,860,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations in this section are for the governor's emergency fund for the critically necessary work of any agency. Up to \$5,298,000 of the fiscal year 2003 appropriation is provided for costs associated with implementing House Bill No. 2926 (transferring the state library to the office of secretary of state.)

**PART VIII
 OTHER TRANSFERS AND APPROPRIATIONS**

Sec. 801. 2001 2nd sp.s. c 7 s 801 (uncodified) is amended to read as follows:
FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION

General Fund Appropriation for fire insurance premium distributions	\$	((6,528,600)) <u>7,526,700</u>
General Fund Appropriation for public utility district excise tax distributions	\$	((36,427,306)) <u>34,754,723</u>
General Fund Appropriation for prosecuting attorney distributions	\$	((3,090,000)) <u>3,110,000</u>
General Fund Appropriation for boating safety/ education and law enforcement distributions	\$	3,780,000
General Fund Appropriation for other tax distributions	\$	((39,566)) <u>1,951,556</u>
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies	\$	1,621,537
Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution	\$	147,500
Timber Tax Distribution Account Appropriation for distribution to "timber" counties	\$	((68,562,000)) <u>57,405,032</u>
County Criminal Justice Assistance Appropriation	\$	49,835,213
Municipal Criminal Justice Assistance Appropriation	\$	19,988,097

Liquor Excise Tax Account Appropriation for		
liquor excise tax distribution	\$	28,659,331
Liquor Revolving Account Appropriation for		
liquor profits distribution	\$	55,344,817
TOTAL APPROPRIATION	\$	((274,023,967))
		<u>264,124,506</u>

The total expenditures from the state treasury under the appropriations in this section shall not exceed the funds available under statutory distributions for the stated purposes.

Sec. 802. 2001 2nd sp.s. c 7 s 805 (uncodified) is amended to read as follows:
FOR THE STATE TREASURER—TRANSFERS

For transfers in this section to the state general fund, pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by the amount of the transfer. The increase shall occur in the fiscal year in which the transfer occurs.

Public Facilities Construction Loan and		
Grant Revolving Account: For transfer		
to the digital government revolving account		
on or before December 31, 2001	\$	1,418,456
Financial Services Regulation Fund: To be		
transferred from the financial services		
regulation fund to the digital government		
revolving account during the period		
between July 1, 2001, and December 31,		
2001	\$	2,000,000
Local Toxics Control Account: For transfer		
to the state toxics control account.		
Transferred funds will be utilized		
for methamphetamine lab cleanup, to		
address areawide soil contamination		
problems, and clean up contaminated		
sites as part of the clean sites		
initiative	\$	6,000,000
State Toxics Control Account: For transfer		
to the water quality account for water		
quality related projects funded in the		
capital budget	\$	9,000,000
General Fund: For transfer to the flood		
control assistance account	\$	4,000,000
Water Quality Account: For transfer to the		
water pollution control account. Transfers		
shall be made at intervals coinciding with		
deposits of federal capitalization grant		

money into the account. The amounts transferred shall not exceed the match required for each federal deposit	\$	12,564,487
<u>Health Services Account: For transfer to the water quality account</u>	<u>\$</u>	<u>6,447,500</u>
State Treasurer's Service Account: For transfer to the general fund on or before June 30, 2003, an amount in excess of the cash requirements of the state treasurer's service account. Pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased by <u>\$4,000,000 in fiscal year 2002 and by \$8,393,000 in fiscal year 2003 to reflect this transfer</u>	\$	((8,000,000)) <u>12,393,000</u>
Public Works Assistance Account: For transfer to the drinking water assistance account	\$	7,700,000
Tobacco Settlement Account: For transfer to the health services account, in an amount not to exceed the actual balance of the tobacco settlement account	\$	((310,000,000)) <u>256,700,000</u>
General Fund: For transfer to the water quality account	\$	((60,325,000)) <u>60,821,172</u>
Health Services Account: For transfer to the state general fund by June 30, 2002. Pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased in fiscal year 2002 to reflect this transfer	\$	((130,000,000)) <u>150,000,000</u>
((Health Services Account: For transfer to the state general fund by June 30, 2003. Pursuant to RCW 43.135.035(5), the state expenditure limit shall be increased in fiscal year 2003 to reflect this transfer	\$	20,000,000
State Surplus Assets Reserve Fund: For transfer to the multimodal transportation account by June 30, 2002	\$	70,000,000))
Multimodal Transportation Account: For		

transfer to the state general fund
by June 30, 2002. Pursuant to RCW
43.135.035(5), the state expenditure
limit shall be increased in fiscal
year 2002 to reflect this transfer \$ 70,000,000

Health Service Account: For transfer
to the violence reduction and drug
enforcement account \$ 6,497,500

Gambling Revolving Account: For transfer
to the state general fund, \$2,000,000
for fiscal year 2002 and \$450,000 for
fiscal year 2003 \$ 2,450,000

Horticultural Districts Account: For transfer
to the fruit and vegetable inspection
account \$ 11,075,000

Agricultural Local Account: For
transfer to the fruit and vegetable
inspection account \$ 605,000

Nisqually Earthquake Account: For transfer to
the disaster response account for fire
suppression and mobilization costs \$ 32,802,000

Enhanced 911 Account: For transfer to
the state general fund for fiscal
year 2003 \$ 6,000,000

Clarke-McNary Fund: For transfer to the
state general fund for fiscal year 2002 \$ 4,000,000

State Drought Preparedness Account: For
transfer to the state general fund for
fiscal year 2002 \$ 3,000,000

Financial Services Regulation Fund: For
transfer to the state general fund,
\$2,250,000 for fiscal year 2002 and
\$357,000 for fiscal year 2003 \$ 2,607,000

Industrial Insurance Premium Refund Account:
For transfer to the state general fund
for fiscal year 2002 \$ 1,000,000

Liquor Control Board Construction and
Maintenance Account: For transfer
to the state general fund for fiscal
year 2003 \$ 504,000

Liquor Revolving Account: For transfer
to the state general fund for fiscal
year 2003 \$ 2,059,000

<u>Lottery Administrative Account: For transfer to the state general fund for fiscal year 2003</u>	£	<u>335,000</u>
<u>Emergency Medical Services and Trauma Care System Trust Account: For transfer to the state general fund for fiscal year 2002</u>	£	<u>6,000,000</u>
<u>Public Service Revolving Account: For transfer to the state general fund for fiscal year 2003</u>	£	<u>406,000</u>
<u>Local Leasehold Excise Tax Account: For transfer of interest to the state general fund by June 1, 2002, for fiscal year 2002</u>	£	<u>1,000,000</u>
<u>Insurance Commissioner's Regulatory Account: For transfer to the state general fund for fiscal year 2003</u>	£	<u>366,000</u>
<u>Health Services Account: For transfer to the tobacco prevention and control account</u>	£	<u>21,980,000</u>
<u>From the Emergency Reserve Fund: For transfer to the state general fund:</u>		
<u>On June 28, 2002</u>	£	<u>300,000,000</u>
<u>On June 28, 2003</u>	£	<u>25,000,000</u>
<u>Tobacco Securitization Trust Account: For transfer to the state general fund for fiscal year 2003</u>	£	<u>450,000,000</u>

**PART IX
MISCELLANEOUS**

Sec. 901. RCW 9.46.100 and 1991 sp.s. c 16 s 917 are each amended to read as follows:

There is hereby created the gambling revolving fund which shall consist of all moneys receivable for licensing, penalties, forfeitures, and all other moneys, income, or revenue received by the commission. The state treasurer shall be custodian of the fund. All moneys received by the commission or any employee thereof, except for change funds and an amount of petty cash as fixed by rule or regulation of the commission, shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the gambling revolving fund. Disbursements from the revolving fund shall be on authorization of the commission or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the gambling revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund. All expenses relative to commission business, including but not

limited to salaries and expenses of the director and other commission employees shall be paid from the gambling revolving fund.

~~((The state treasurer shall transfer to the general fund one million dollars from the gambling revolving fund for the 1991-93 fiscal biennium.))~~ During the 2001-2003 fiscal biennium, the legislature may transfer from the gambling revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund and reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 902. RCW 28B.50.837 and 1993 c 87 s 1 are each amended to read as follows:

(1) The Washington community and technical college exceptional faculty awards program is established. The program shall be administered by the college board. The college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community and technical college exceptional faculty awards program shall be deposited in the college faculty awards trust fund. At the request of the college board, the treasurer shall release the state matching funds to the local endowment fund of the college or its foundation. No appropriation is necessary for the expenditure of moneys from the fund. During the 2001-2003 fiscal biennium, the legislature may appropriate funds from the college faculty awards trust fund for the purposes of the settlement costs of the *Mader v. State* litigation regarding retirement contributions on behalf of part-time faculty.

Sec. 903. RCW 38.52.105 and 1997 c 251 s 1 are each amended to read as follows:

The disaster response account is created in the state treasury. Moneys may be placed in the account from legislative appropriations and transfers, federal appropriations, or any other lawful source. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for support of state agency and local government disaster response and recovery efforts. During the 2001-03 biennium, funds from the account may also be used for costs associated with national security preparedness activities.

Sec. 904. RCW 38.52.106 and 2001 c 5 s 2 are each amended to read as follows:

The Nisqually earthquake account is created in the state treasury. Moneys may be placed in the account from tax revenues, budget transfers or appropriations, federal appropriations, gifts, or any other lawful source. Moneys in the account may be spent only after appropriation. Moneys in the account shall be used only to support state and local government disaster response and recovery efforts associated with the Nisqually earthquake. During the 2001-2003 fiscal biennium, the legislature may transfer moneys from the Nisqually earthquake account to the

disaster response account for fire suppression and mobilization costs, and costs associated with national security preparedness activities.

Sec. 905. RCW 38.52.540 and 2001 c 128 s 2 are each amended to read as follows:

The enhanced 911 account is created in the state treasury. All receipts from the state enhanced 911 excise tax imposed by RCW 82.14B.030 shall be deposited into the account. Moneys in the account shall be used only to support the statewide coordination and management of the enhanced 911 system and to help supplement, within available funds, the operational costs of the system. Funds shall not be distributed to any county that has not imposed the maximum county enhanced 911 taxes allowed under RCW 82.14B.030 (1) and (2). The state enhanced 911 coordinator, with the advice and assistance of the enhanced 911 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 911 services for all counties and shall specify by rule the additional purposes for which moneys, if available, may be expended from this account. During the 2001-2003 fiscal biennium, the legislature may transfer from the enhanced 911 account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 906. RCW 41.06.150 and 1999 c 297 s 3 are each amended to read as follows:

The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

- (1) The reduction, dismissal, suspension, or demotion of an employee;
- (2) Certification of names for vacancies, including departmental promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: PROVIDED, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;
- (3) Examinations for all positions in the competitive and noncompetitive service;
- (4) Appointments;
- (5) Training and career development;
- (6) Probationary periods of six to twelve months and rejections of probationary employees, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;
- (7) Transfers;
- (8) Sick leaves and vacations;
- (9) Hours of work;
- (10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: **PROVIDED**, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: **PROVIDED**, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: **PROVIDED FURTHER**, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: **PROVIDED FURTHER**, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: **AND PROVIDED FURTHER**, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: **PROVIDED**, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position.

(a) The board shall not adopt job classification revisions or class studies unless implementation of the proposed revision or study will result in net cost savings, increased efficiencies, or improved management of personnel or services, and the proposed revision or study has been approved by the director of financial management in accordance with chapter 43.88 RCW.

(b) Beginning July 1, 1995, through June 30, 1997, in addition to the requirements of (a) of this subsection:

(i) The board may approve the implementation of salary increases resulting from adjustments to the classification plan during the 1995-97 fiscal biennium only if:

(A) The implementation will not result in additional net costs and the proposed implementation has been approved by the director of financial management in accordance with chapter 43.88 RCW;

(B) The implementation will take effect on July 1, 1996, and the total net cost of all such actions approved by the board for implementation during the 1995-97 fiscal biennium does not exceed the amounts specified by the legislature specifically for this purpose; or

(C) The implementation is a result of emergent conditions. Emergent conditions are defined as emergency situations requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare, which do not exceed \$250,000 of the moneys identified in section 718(2), chapter 18, Laws of 1995 2nd sp. sess.

(ii) The board shall approve only those salary increases resulting from adjustments to the classification plan if they are due to documented recruitment and retention difficulties, salary compression or inversion, increased duties and responsibilities, or inequities. For these purposes, inequities are defined as similar work assigned to different job classes with a salary disparity greater than 7.5 percent.

(iii) Adjustments made to the higher education hospital special pay plan are exempt from (b)(i) through (ii) of this subsection.

(c) Reclassifications, class studies, and salary adjustments to be implemented during the 1997-99 and subsequent fiscal biennia are governed by (a) of this subsection and RCW 41.06.152;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155 and that, for institutions of higher education and related boards, shall be competitive for positions of a similar nature in the state or the locality in which an institution of higher education or related board is located, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Optional lump sum relocation compensation approved by the agency director, whenever it is reasonably necessary that a person make a domiciliary move in accepting a transfer or other employment with the state. An agency must provide lump sum compensation within existing resources. If the person receiving the relocation payment terminates or causes termination with the state, for reasons other than layoff, disability separation, or other good cause as determined by an agency director, within one year of the date of the employment, the state is entitled to reimbursement of the lump sum compensation from the person;

(20) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their surviving spouses by giving such eligible veterans and their surviving spouses additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: **PROVIDED, HOWEVER,** That the surviving spouse of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: **PROVIDED FURTHER,** That for the purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(21) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: **PROVIDED,** That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(22) Assuring persons who are or have been employed in classified positions before July 1, 1993, will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter;

(23) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

Notwithstanding this section and rules of the board adopted under this section, agencies may place employees on temporary unpaid leave during the 2001-2003 fiscal biennium for the purpose of implementing appropriations reductions enacted in the 2002 supplemental appropriations act. Mandatory unpaid leave must be approved by the agency director, and must be, to the greatest extent possible, mutually agreeable to the employee and employer. Employees taking mandatory temporary unpaid leave will not lose seniority, leave accrual, or health insurance benefits.

Sec. 907. RCW 43.10.220 and 1999 c 309 s 916 are each amended to read as follows:

The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation, institution and maintenance of antitrust actions under the state and federal antitrust acts. During the ~~((1999-01))~~ 2001-03 fiscal biennium, the attorney general may expend ~~((up to one million three hundred thousand dollars))~~ from the antitrust revolving fund for the purposes of ~~((implementing a case management data processing system for the centralized management of cases and workload, including antitrust and other complex litigation))~~ the consumer protection activities of the office.

Sec. 908. RCW 43.30.360 and 1986 c 100 s 46 are each amended to read as follows:

The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed. During the 2001-2003 fiscal biennium, the legislature may transfer from the Clarke-McNary fund to the state general fund such amounts as reflect the excess fund balance of the Clarke-McNary fund.

Sec. 909. RCW 43.72.900 and 2002 c 2 s 2 (Initiative Measure No. 773) are each amended to read as follows:

(1) The health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Subject to the transfers described in subsection (3) of this section, moneys in the account may be expended only for

maintaining and expanding health services access for low-income residents, maintaining and expanding the public health system, maintaining and improving the capacity of the health care system, containing health care costs, and the regulation, planning, and administering of the health care system.

(2) Funds deposited into the health services account under RCW 82.24.028 and 82.26.028 shall be used solely as follows:

(a) Five million dollars for the state fiscal year beginning July 1, 2002, and five million dollars for the state fiscal year beginning July 1, 2003, shall be appropriated by the legislature for programs that effectively improve the health of low-income persons, including efforts to reduce diseases and illnesses that harm low-income persons. The department of health shall submit a report to the legislature on March 1, 2002, evaluating the cost-effectiveness of programs that improve the health of low-income persons and address diseases and illnesses that disproportionately affect low-income persons, and making recommendations to the legislature on which of these programs could most effectively utilize the funds appropriated under this subsection.

(b) Ten percent of the funds deposited into the health services account under RCW 82.24.028 and 82.26.028 remaining after the appropriation under (a) of this subsection shall be transferred no less frequently than annually by the treasurer to the tobacco prevention and control account established by RCW 43.79.480. The funds transferred shall be used exclusively for implementation of the Washington state tobacco prevention and control plan and shall be used only to supplement, and not supplant, funds in the tobacco prevention and control account as of January 1, 2001, however, these funds may be used to replace funds appropriated by the legislature for further implementation of the Washington state tobacco prevention and control plan for the biennium beginning July 1, 2001. For each state fiscal year beginning on and after July 1, 2002, the legislature shall appropriate no less than twenty-six million two hundred forty thousand dollars from the tobacco prevention and control account for implementation of the Washington state tobacco prevention and control plan.

(c) Because of its demonstrated effectiveness in improving the health of low-income persons and addressing illnesses and diseases that harm low-income persons, the remainder of the funds deposited into the health services account under RCW 82.24.028 and 82.26.028 shall be appropriated solely for Washington basic health plan enrollment as provided in chapter 70.47 RCW. Funds appropriated pursuant to this subsection (2)(c) must supplement, and not supplant, the level of state funding needed to support enrollment of a minimum of one hundred twenty-five thousand persons for the fiscal year beginning July 1, 2002, and every fiscal year thereafter. The health care authority may enroll up to twenty thousand additional persons in the basic health plan during the biennium beginning July 1, 2001, above the base level of one hundred twenty-five thousand enrollees. The health care authority may enroll up to fifty thousand additional persons in the basic health plan during the biennium beginning July 1, 2003, above the base level

of one hundred twenty-five thousand enrollees. For each biennium beginning on and after July 1, 2005, the health care authority may enroll up to at least one hundred seventy-five thousand enrollees. Funds appropriated under this subsection may be used to support outreach and enrollment activities only to the extent necessary to achieve the enrollment goals described in this section.

(3) Prior to expenditure for the purposes described in subsection (2) of this section, funds deposited into the health services account under RCW 82.24.028 and 82.26.028 shall first be transferred to the following accounts to ensure the continued availability of previously dedicated revenues for certain existing programs:

(a) To the violence reduction and drug enforcement account under RCW 69.50.520, two million two hundred forty-nine thousand five hundred dollars for the state fiscal year beginning July 1, 2001, four million two hundred forty-eight thousand dollars for the state fiscal year beginning July 1, 2002, seven million seven hundred eighty-nine thousand dollars for the biennium beginning July 1, 2003, six million nine hundred thirty-two thousand dollars for the biennium beginning July 1, 2005, and six million nine hundred thirty-two thousand dollars for each biennium thereafter, as required by RCW 82.24.020(2);

(b) To the health services account under this section, nine million seventy-seven thousand dollars for the state fiscal year beginning July 1, 2001, seventeen million one hundred eighty-eight thousand dollars for the state fiscal year beginning July 1, 2002, thirty-one million seven hundred fifty-five thousand dollars for the biennium beginning July 1, 2003, twenty-eight million six hundred twenty-two thousand dollars for the biennium beginning July 1, 2005, and twenty-eight million six hundred twenty-two thousand dollars for each biennium thereafter, as required by RCW 82.24.020(3); and

(c) To the water quality account under RCW 70.146.030, two million two hundred three thousand five hundred dollars for the state fiscal year beginning July 1, 2001, four million two hundred forty-four thousand dollars for the state fiscal year beginning July 1, 2002, eight million one hundred eighty-two thousand dollars for the biennium beginning July 1, 2003, seven million eight hundred eighty-five thousand dollars for the biennium beginning July 1, 2005, and seven million eight hundred eighty-five thousand dollars for each biennium thereafter, as required by RCW 82.24.027(2)(a).

During the 2001-2003 fiscal biennium, the legislature may transfer from the health services account such amounts as reflect the excess fund balance of the account.

Sec. 910. RCW 43.83B.430 and 1999 c 379 s 921 are each amended to read as follows:

The state drought preparedness account is created in the state treasury. All receipts from appropriated funds designated for the account and funds transferred from the state emergency water projects revolving account must be deposited into the account. Moneys in the account may be spent only after appropriation.

Expenditures from the account may be used only for drought preparedness. During the 2001-2003 fiscal biennium, the legislature may transfer from the state drought preparedness account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 911. RCW 43.88.030 and 2000 2nd sp.s. c 4 s 12 are each amended to read as follows:

(1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies and committees that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues and caseloads as approved by the economic and revenue forecast council and caseload forecast council or upon the estimated revenues and caseloads of the office of financial management for those funds, accounts, sources, and programs for which the forecast councils do not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the transportation revenue forecast council. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues and caseloads for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue and caseload estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues and caseloads must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for

expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity, and agency. However, documents submitted for the 2003-05 biennial budget request need not show expenditures by activity;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.71 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments, and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;

(g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and

(j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

(a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;

(b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;

(c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;

(d) A strategic plan for reducing backlogs of maintenance and repair projects. The plan shall include a prioritized list of specific facility deficiencies and capital projects to address the deficiencies for each agency, cost estimates for each project, a schedule for completing projects over a reasonable period of time, and identification of normal maintenance activities to reduce future backlogs;

(e) A statement of the reason or purpose for a project;

(f) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;

(g) A statement about the proposed site, size, and estimated life of the project, if applicable;

(h) Estimated total project cost;

(i) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project.

Project component costs shall be displayed in a standard format defined by the office of financial management to allow comparisons between projects;

(j) Estimated total project cost for each phase of the project as defined by the office of financial management;

(k) Estimated ensuing biennium costs;

(l) Estimated costs beyond the ensuing biennium;

(m) Estimated construction start and completion dates;

(n) Source and type of funds proposed;

(o) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;

(p) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;

(q) Such other information bearing upon capital projects as the governor deems to be useful;

(r) Standard terms, including a standard and uniform definition of normal maintenance, for all capital projects;

(s) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by

members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 912. RCW 43.320.110 and 2001 2nd sp.s. c 7 s 911 are each amended to read as follows:

There is created a local fund known as the "financial services regulation fund" which shall consist of all moneys received by the divisions of the department of financial institutions, except for the division of securities which shall deposit thirteen percent of all moneys received, and which shall be used for the purchase of supplies and necessary equipment; the payment of salaries, wages, and utilities; the establishment of reserves; and other incidental costs required for the proper regulation of individuals and entities subject to regulation by the department. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund.

Between July 1, 2001, and December 31, 2001, the legislature may transfer up to two million dollars from the financial services regulation fund to the ((state general fund)) digital government revolving account. During the 2001-2003 fiscal biennium, the legislature may transfer from the financial services regulation fund to the state general fund such amounts as reflect the excess fund balance of the fund and appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 913. RCW 48.02.190 and 1987 c 505 s 54 are each amended to read as follows:

(1) As used in this section:

(a) "Organization" means every insurer, as defined in RCW 48.01.050, having a certificate of authority to do business in this state and every health care service contractor registered to do business in this state. "Class one" organizations shall consist of all insurers as defined in RCW 48.01.050. "Class two" organizations shall consist of all organizations registered under provisions of chapter 48.44 RCW.

(b) "Receipts" means (i) net direct premiums consisting of direct gross premiums, as defined in RCW 48.18.170, paid for insurance written or renewed upon risks or property resident, situated, or to be performed in this state, less return premiums and premiums on policies not taken, dividends paid or credited to policyholders on direct business, and premiums received from policies or contracts issued in connection with qualified plans as defined in RCW 48.14.021, and (ii) prepayments to health care service contractors as set forth in RCW 48.44.010(3) less experience rating credits, dividends, prepayments returned to subscribers, and payments for contracts not taken.

(2) The annual cost of operating the office of insurance commissioner shall be determined by legislative appropriation. A pro rata share of the cost shall be

charged to all organizations. Each class of organization shall contribute sufficient in fees to the insurance commissioner's regulatory account to pay the reasonable costs, including overhead, of regulating that class of organization.

(3) Fees charged shall be calculated separately for each class of organization. The fee charged each organization shall be that portion of the cost of operating the insurance commissioner's office, for that class of organization, for the ensuing fiscal year that is represented by the organization's portion of the receipts collected or received by all organizations within that class on business in this state during the previous calendar year: PROVIDED, That the fee shall not exceed one-eighth of one percent of receipts: PROVIDED FURTHER, That the minimum fee shall be one thousand dollars.

(4) The commissioner shall annually, on or before June 1, calculate and bill each organization for the amount of its fee. Fees shall be due and payable no later than June 15 of each year: PROVIDED, That if the necessary financial records are not available or if the amount of the legislative appropriation is not determined in time to carry out such calculations and bill such fees within the time specified, the commissioner may use the fee factors for the prior year as the basis for the fees and, if necessary, the commissioner may impose supplemental fees to fully and properly charge the organizations. The penalties for failure to pay fees when due shall be the same as the penalties for failure to pay taxes pursuant to RCW 48.14.060. The fees required by this section are in addition to all other taxes and fees now imposed or that may be subsequently imposed.

(5) All moneys collected shall be deposited in the insurance commissioner's regulatory account in the state treasury which is hereby created.

(6) Unexpended funds in the insurance commissioner's regulatory account at the close of a fiscal year shall be carried forward in the insurance commissioner's regulatory account to the succeeding fiscal year and shall be used to reduce future fees. During the 2001-2003 fiscal biennium, the legislature may transfer from the insurance commissioner's regulatory account to the state general fund such amounts as reflect excess fund balance in the account.

Sec. 914. RCW 50.16.010 and 1993 c 483 s 7 and 1993 c 226 s 10 are each reenacted and amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund, an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable.

The unemployment compensation fund shall consist of

- (1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,
- (2) any property or securities acquired through the use of moneys belonging to the fund,
- (3) all earnings of such property or securities,

(4) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,

(5) all money recovered on official bonds for losses sustained by the fund,

(6) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,

(7) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

(8) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title, all fines and penalties collected pursuant to the provisions of this title, all sums recovered on official bonds for losses sustained by the fund, and revenue received under RCW 50.24.014: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended.

Moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

(c) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d) During the 2001-2003 fiscal biennium, the cost of worker retraining programs at community and technical colleges as appropriated by the legislature.

Money in the special account created under RCW 50.24.014 may only be expended, after appropriation, for the purposes specified in RCW 50.62.010, 50.62.020, 50.62.030, 50.04.070, 50.04.072, 50.16.010, 50.29.025, 50.24.014, 50.44.053, and 50.22.010.

Sec. 915. RCW 50.20.190 and 2001 c 146 s 7 are each amended to read as follows:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, may be deducted from any future benefits payable to the individual: **PROVIDED**, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience: **PROVIDED, HOWEVER**, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

(3) Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: **PROVIDED**, That an appeal from any determination covering overpayment only shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days notice by certified mail return receipt requested to the individual's last known address of the intended action, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause

number assigned to the warrant, the name of the person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. A warrant so docketed shall be sufficient to support the issuance of writs of execution and writs of garnishment in favor of the state in the manner provided by law for a civil judgment. A copy of the warrant shall be mailed to the person(s) mentioned in the warrant by certified mail to the person's last known address within five days of its filing with the clerk.

(4) On request of any agency which administers an employment security law of another state, the United States, or a foreign government and which has found in accordance with the provisions of such law that a claimant is liable to repay benefits received under such law, the commissioner may collect the amount of such benefits from the claimant to be refunded to the agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States, or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States, or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an

overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of their monthly payments either partially or in full. The interest penalty shall be used to fund detection and recovery of overpayment and collection activities and, during the 2001-2003 fiscal biennium, the cost of worker retraining programs at community and technical colleges as appropriated by the legislature.

Sec. 916. RCW 51.44.170 and 1997 c 327 s 1 are each amended to read as follows:

The industrial insurance premium refund account is created in the custody of the state treasurer. All industrial insurance refunds earned by state agencies or institutions of higher education under the state fund retrospective rating program shall be deposited into the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures from the account. Only the executive head of the agency or institution of higher education, or designee, may authorize expenditures from the account. No agency or institution of higher education may make an expenditure from the account for an amount greater than the refund earned by the agency. If the agency or institution of higher education has staff dedicated to workers' compensation claims management, expenditures from the account must be used to pay for that staff, but additional expenditure from the account may be used for any program within an agency or institution of higher education that promotes or provides incentives for employee workplace safety and health and early, appropriate return-to-work for injured employees. During the 2001-2003 fiscal biennium, the legislature may transfer from the industrial insurance premium refund account to the state general fund such amounts as reflect the reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 917. RCW 66.08.170 and 1961 ex.s. c 6 s 1 are each amended to read as follows:

There shall be a fund, known as the "liquor revolving fund", which shall consist of all license fees, permit fees, penalties, forfeitures, and all other moneys, income, or revenue received by the board. The state treasurer shall be custodian

of the fund. All moneys received by the board or any employee thereof, except for change funds and an amount of petty cash as fixed by the board within the authority of law shall be deposited each day in a depository approved by the state treasurer and transferred to the state treasurer to be credited to the liquor revolving fund. During the 2001-2003 fiscal biennium, the legislature may transfer from the liquor revolving account to the state general fund such amounts as reflect the excess fund balance of the fund and reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings. Disbursements from the revolving fund shall be on authorization of the board or a duly authorized representative thereof. In order to maintain an effective expenditure and revenue control the liquor revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from such fund.

Sec. 918. RCW 66.08.235 and 1997 c 75 s 1 are each amended to read as follows:

The liquor control board construction and maintenance account is created within the state treasury. The liquor control board shall deposit into this account a portion of the board's markup, as authorized by chapter 66.16 RCW, placed upon liquor as determined by the board. Moneys in the account may be spent only after appropriation. The liquor control board shall use deposits to this account to fund construction and maintenance of a centralized distribution center for liquor products intended for sale through the board's liquor store and vendor system. During the 2001-2003 fiscal biennium, the legislature may transfer from the liquor control board construction and maintenance account to the state general fund such amounts as reflect the appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 919. RCW 67.70.260 and 1985 c 375 s 6 are each amended to read as follows:

There is hereby created the lottery administrative account in the state treasury. The account shall be managed, controlled, and maintained by the director. The legislature may appropriate from the account for the payment of costs incurred in the operation and administration of the lottery. During the 2001-2003 fiscal biennium, the legislature may transfer from the lottery administrative account to the state general fund such amounts as reflect the appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 920. RCW 69.50.520 and 2001 2nd sp.s. c 7 s 920 and 2001 c 168 s 3 are each reenacted and amended to read as follows:

The violence reduction and drug enforcement account is created in the state treasury. All designated receipts from RCW 9.41.110(8), 66.24.210(4), 66.24.290(2), 69.50.505(i)(1), 82.08.150(5), 82.24.020(2), 82.64.020, and section 420, chapter 271, Laws of 1989 shall be deposited into the account. Expenditures

from the account may be used only for funding services and programs under chapter 271, Laws of 1989 and chapter 7, Laws of 1994 sp. sess., including state incarceration costs. Funds from the account may also be appropriated to reimburse local governments for costs associated with implementing criminal justice legislation including chapter 338, Laws of 1997. During the 2001-2003 biennium, funds from the account may also be used for costs associated with providing grants to local governments in accordance with chapter 338, Laws of 1997, the replacement of the department of corrections' offender-based tracking system, maintenance and operating costs of the Washington association of sheriffs and police chiefs jail reporting system, civil indigent legal representation, and for multijurisdictional narcotics task forces. After July 1, 2003, at least seven and one-half percent of expenditures from the account shall be used for providing grants to community networks under chapter 70.190 RCW by the family policy council.

Sec. 921. RCW 70.146.030 and 2001 2nd sp.s. c 7 s 922 are each amended to read as follows:

(1) The water quality account is hereby created in the state treasury. Moneys in the account may be used only in a manner consistent with this chapter. Moneys deposited in the account shall be administered by the department of ecology and shall be subject to legislative appropriation. Moneys placed in the account shall include tax receipts as provided in RCW 82.24.027, 82.26.025, and 82.32.390, principal and interest from the repayment of any loans granted pursuant to this chapter, and any other moneys appropriated to the account by the legislature.

(2) The department may use or permit the use of any moneys in the account to make grants or loans to public bodies, including grants to public bodies as cost-sharing moneys in any case where federal, local, or other funds are made available on a cost-sharing basis, for water pollution control facilities and activities, or for purposes of assisting a public body to obtain an ownership interest in water pollution control facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, within the purposes of this chapter and for related administrative expenses. For the period July 1, 2001, to June 30, 2003, moneys in the account may be used to process applications received by the department that seek to make changes to or transfer existing water rights and for grants and technical assistance to public bodies for watershed planning under chapter 90.82 RCW. No more than three percent of the moneys deposited in the account may be used by the department to pay for the administration of the grant and loan program authorized by this chapter.

(3) Beginning with the biennium ending June 30, 1997, the department shall present a biennial progress report on the use of moneys from the account to the chairs of the senate committee on ways and means and the house of representatives committee on appropriations. The first report is due June 30, 1996, and the report for each succeeding biennium is due December 31 of the odd-numbered year. The

report shall consist of a list of each recipient, project description, and amount of the grant, loan, or both.

~~((4) During the fiscal biennium ending June 30, 1997, moneys in the account may be transferred by the legislature to the water right permit processing account.))~~

Sec. 922. RCW 70.168.040 and 1997 c 331 s 2 are each amended to read as follows:

The emergency medical services and trauma care system trust account is hereby created in the state treasury. Moneys shall be transferred to the emergency medical services and trauma care system trust account from the public safety education account or other sources as appropriated, and as collected under RCW 46.63.110(6) and 46.12.042. Disbursements shall be made by the department subject to legislative appropriation. Expenditures may be made only for the purposes of the state trauma care system under this chapter, including emergency medical services, trauma care services, rehabilitative services, and the planning and development of related services under this chapter and for reimbursement by the department of social and health services for trauma care services provided by designated trauma centers. During the 2001-2003 fiscal biennium, the legislature may transfer from the emergency medical services and trauma care system trust account to the state general fund such amounts as reflect the excess fund balance of the account.

Sec. 923. RCW 79.24.580 and 2001 c 227 s 7 are each amended to read as follows:

After deduction for management costs as provided in RCW 79.64.040 and payments to towns under RCW 79.92.110(2), all moneys received by the state from the sale or lease of state-owned aquatic lands and from the sale of valuable material from state-owned aquatic lands shall be deposited in the aquatic lands enhancement account which is hereby created in the state treasury. After appropriation, these funds shall be used solely for aquatic lands enhancement projects; for the purchase, improvement, or protection of aquatic lands for public purposes; for providing and improving access to such lands; and for volunteer cooperative fish and game projects.

In providing grants for aquatic lands enhancement projects, the department shall require grant recipients to incorporate the environmental benefits of the project into their grant applications, and the department shall utilize the statement of environmental benefits in its prioritization and selection process. The department shall also develop appropriate outcome-focused performance measures to be used both for management and performance assessment of the grants. To the extent possible, the department should coordinate its performance measure system with other natural resource-related agencies as defined in RCW 43.41.270. The department shall consult with affected interest groups in implementing this section.

During the fiscal biennium ending June 30, ~~((2001))~~ 2003, the funds may be appropriated for boating safety~~((:))~~ and shellfish management, enforcement, and

enhancement ~~((and for developing and implementing plans for population monitoring and restoration of native wild salmon stock)).~~

Sec. 924. RCW 80.01.080 and 2001 c 238 s 8 are each amended to read as follows:

~~((The transportation revolving fund and the public utilities revolving fund are abolished as of April 1, 1949, and as of such date))~~ There is created in the state treasury a ~~((⁽²⁾))~~public service revolving fund~~((⁽¹⁾ to which shall be transferred all moneys which then remain on hand to the credit of the transportation revolving fund and the public utilities revolving fund, subject, however, to outstanding warrants and other obligations chargeable to appropriations made from such funds. From and after April 1, 1949;)).~~ Regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. Except for expenses payable out of the pipeline safety account, all expense of operation of the Washington utilities and transportation commission shall be payable out of the public service revolving fund.

During the 2001-2003 fiscal biennium, the legislature may transfer from the public service revolving fund to the state general fund such amounts as reflect the appropriations reductions made by the 2002 supplemental appropriations act for administrative efficiencies and savings.

Sec. 925. RCW 82.29A.080 and 1985 c 57 s 84 are each amended to read as follows:

The counties and cities shall contract, prior to the effective date of an ordinance imposing a leasehold excise tax, with the department of revenue for administration and collection. The department of revenue shall deduct a percentage amount, as provided by such contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by the department. The remainder of any portion of any tax authorized by RCW 82.29A.040 which is collected by the department of revenue shall be deposited by the state department of revenue in the local leasehold excise tax account hereby created in the state treasury. Moneys in the local leasehold excise tax account may be spent only for distribution to counties and cities imposing a leasehold excise tax.

During the 2001-2003 fiscal biennium, the legislature may transfer from the local leasehold excise tax account to the state general fund such amounts as reflect the interest earnings of the account.

NEW SECTION. Sec. 926. 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. 927. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Passed the Senate March 14, 2002.

Passed the House March 13, 2002.

Approved by the Governor April 5, 2002, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 5, 2002.

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

"I am returning herewith, without my approval the following appropriation items and sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e); 207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725 of Engrossed Substitute Senate Bill No. 6387 entitled:

"AN ACT Relating to fiscal matters;"

Engrossed Substitute Senate Bill No. 6387 is the state supplemental operating budget for the 2001-2003 Biennium. I have vetoed several provisions as described below:

Subsection 125(34), Page 29, Mobile Home Relocation Assistance (Department of Community, Trade, and Economic Development (CTED))

This subsection designated \$202,000 from the nonappropriated Mobile Home Park Relocation Account for implementation of Second Substitute Senate Bill 5354, the Mobile Home Relocation Assistance Fee Act. Since the account is nonappropriated, CTED will still be able to spend the funds in a manner that will accomplish the intent of the policy bill.

Subsection 204(1)(h), Page 63, Restrictions on Administration Costs for Regional Support Networks (RSNs) (Department of Social and Health Services (DSHS) - Mental Health Program)

The 8 percent administrative cap in this proviso may not be appropriate for all RSNs. In response to the Joint Legislative Audit and Review Committee recommendations, DSHS is currently conducting a review of existing RSN administration levels. That review is expected to be finished within a month. Until this review is complete, it is premature to set an administrative cap for each individual RSN. The budget contains other language and savings requirements that will impose sufficient restraints on RSN administrative spending without the necessity of this proviso.

Subsection 204(1)(k), Page 63, Mental Health Ombudsman Proposal Development (Department of Social and Health Services (DSHS) - Mental Health Program)

This proviso would have required the Department of Community, Trade, and Economic Development and DSHS to develop a proposal to create a structurally and functionally independent mental health ombudsman program. This requirement increases the workload for both departments without providing additional funding during a time of increasing fiscal constraints.

Subsection 204(5)(c), Pages 67-68, State Hospital Bed Allocation (Department of Social and Health Services (DSHS) - Mental Health Program)

Beginning this year, DSHS implemented a new state hospital bed allocation plan based on a more equitable distribution methodology than was previously used. The plan also addressed potential legal issues related to historical allocations. To minimize impacts, the new allocation formula has been phased in and Regional Support Networks signed their contracts based on the new bed formula. In light of this, it is inappropriate to substitute the allocation method mandated in Subsection 204(5)(c). I have vetoed this proviso in order to maintain the current approach.

Subsection 205(1)(a), Page 68, Monthly Progress Reports (Department of Social and Health Services (DSHS) - Developmental Disabilities Program)

This requirement for additional monthly reports is excessive, and there are alternative means to effectively provide the information needed by the Legislature. I have directed DSHS to keep the Legislature fully informed of actions taken by the Division of Developmental Disabilities regarding the implementation of expanded services, the development and implementation of new home and community-based waivers, and improvements in program and fiscal management. DSHS will coordinate with the Legislature to adjust the agency's existing reporting mechanisms to ensure that necessary information is communicated on an appropriate and timely schedule.

Subsection 207(1)(e), Page 80, Drug and Alcohol Treatment Services (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have reduced funding for DSHS to contract with the Employment Security Department to maintain support for drug and alcohol treatment services designated to help parents receiving Temporary Assistance to Needy Families (TANF) benefits. Funding for employment services is central in assisting TANF recipients to find work and leave welfare. If families remain on TANF, the funding for alcohol and drug treatment, as well as other needed support services, will not be available.

Subsection 207(1)(f), Page 80, Comprehensive Drug and Alcohol Treatment Project (Department of Social and Health Services (DSHS) - Economic Services Program)

This subsection would have provided an additional \$878,000 of the federal appropriation for the comprehensive alcohol and drug treatment project. I have vetoed this item, but will dedicate \$878,000 of existing General Fund-State appropriations to match federal

Medicaid funds. This action will increase the funds available for these projects to \$1,756,000 and allow the evaluation of these projects to be completed.

Subsection 207(1)(g), Page 80, Job Search and Job Placement Activities (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have limited the funds available for job search and job placement activities to \$5.8 million for the biennium. DSHS cannot comply with this proviso since it has already expended over \$19 million on these activities.

Subsection 207(1)(h), Page 80, WorkFirst Post-Employment Labor Exchange Program (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have eliminated the WorkFirst Post-Employment Labor Exchange program. This program is the only post-employment service available to WorkFirst participants and needs to be retained. These services aid participants in job retention, lower the number of clients returning to TANF, and support wage progression. A thorough evaluation of the program will be completed this summer, and the program's effectiveness will be reviewed again at that time.

Subsection 207(1)(i), Page 80, Indigent Civil Legal Services (Department of Social and Health Services (DSHS) - Economic Services Program)

I am pleased that the Legislature restored \$1.5 million (in the Department of Community, Trade, and Economic Development budget) of the \$2.4 million in legal services funding that was eliminated from the program in February. However, there are not sufficient funds in the WorkFirst budget to continue to provide these services, so I have vetoed the proviso appropriating \$900,000 in federal funds to DSHS.

Subsection 207(1)(j), Page 80, Limit on Child Care Subsidy Co-payment (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have limited the increase in co-payments for childcare to no more than two dollars per month. However, an increase of five dollars in the current co-pay must be implemented to keep program expenditures within available funds. The proviso also restricts the agency's future flexibility by forcing the childcare program to reduce eligible clients rather than increasing co-pay rates.

Subsection 207(1)(k), Page 80, Parenting Skills Funding (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have restored funding for parenting and family management skills development, enhanced childcare rates, and other programs provided at the community colleges. While these are valuable services, there are insufficient funds in the WorkFirst budget to restore these programs to the level required by the proviso. The community and technical colleges are currently reviewing the best way to serve clients being referred to them, and need flexibility in their expenditure plan.

Subsection 207(1)(l), Page 80, After-school Programs for Middle School Youth (Department of Social and Health Services (DSHS) - Economic Services Program)

The Legislature restored \$300,000 for after-school programs for middle school youth by assuming use of federal funding. Although this is an innovative program that benefits middle school students by providing out-of-school care, it is not core to the goals of WorkFirst and cannot be achieved without displacing other programs.

Subsection 207(1)(m), Page 80, Consultation and Training for Child Care Providers Caring for Children with Special Needs (Department of Social and Health Services (DSHS) - Economic Services Program)

By this proviso, the Legislature would have restored \$3.4 million to the Department of Health for services by local public health nurses to provide consultation and training to child care providers caring for children with special needs. This is a worthy program, but there are insufficient funds in the WorkFirst budget to continue to provide these services, so I have vetoed this item.

Subsection 207(1)(n), Page 80, Hometown and College Mentoring Services and Programs for Low-Income Youth (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have dedicated \$1 million of WorkFirst federal funds to the Hometown and College Mentoring Services and Programs (Community in Schools Program). Funding for this program has already been provided, thus there is no need for this proviso.

Subsection 308(18), Page 135, Cost Recovery for Conservation Areas and Recreational Sites in the San Juan Islands (Department of Natural Resources (DNR))

This proviso would have directed DNR to employ cost recovery methods at its Natural Resource Conservation Areas and recreation sites in the San Juan Islands comparable to those used by State Parks. This approach could result in the imposition of fees for use of the DNR sites. A task force is created elsewhere in the budget (Subsection 303(6)) to give all users and agencies an opportunity to discuss funding options for the state's outdoor recreation facilities. Implementing a fee solely for the San Juan Islands Natural Resource Conservation Areas and recreation sites before the task force has begun is premature. Given the current state budget outlook, I encourage all interested parties to provide suggestions to the task force for funding the ongoing maintenance and operations of outdoor recreational facilities.

Multiple Sections

In order to maintain a more responsible reserve and because additional revenues were assumed but not enacted, I have eliminated a number of General Fund-State supplemental items. While many of these additions are worthwhile, I have vetoed the following items to save the state General Fund-State \$37.008 million.

- Section 103, lines 10-11, page 3, Second Year Funding Increase (Joint Legislative Audit and Review Committee)
- Section 113, line 23, page 11, Dependency and Termination Pilot (Office of Public Defense)
- Subsection 125(31), page 28, Artistic Organization Support (Department of Community, Trade, and Economic Development)
- Subsection 137(2), pages 38-39, Tax Incentives Study (Department of Revenue)
- Subsection 137(4), page 39, Municipal Business and Occupation Tax Uniformity (Department of Revenue)
- Subsection 205(1)(j), pages 71-72, Home Care Worker Wage Increase (Department of Social and Health Services - Developmental Disabilities Program)
- Subsection 206(11), pages 76-77, Home Care Worker Wage Increase (Department of Social and Health Services - Long-Term Care). I am asking DSHS to put \$2,927,000 of General Fund-State in allotment reserve status to reflect this veto.
- Subsection 221(2)(i), page 104, Motor Vehicle Theft (Department of Corrections)
- Subsection 501(2)(b)(iii), pages 147-148, Technology Task Force (Office of the Superintendent of Public Instruction Statewide Programs)
- Subsection 604(10), page 203, Recruitment and Retention (University of Washington)
- Subsection 605(4), page 204, Recruitment and Retention (Washington State University)
- Section 606, lines 31-38, page 204; lines 1-3, page 205, Recruitment and Retention (Eastern Washington University)
- Subsection 607(1), page 205, Enrollment Recovery (Central Washington University)
- Subsection 607(2), page 205, Recruitment and Retention (Central Washington University)
- Subsection 608(1), page 206, Recruitment and Retention (The Evergreen State College)
- Subsection 608(11), pages 208-209, Washington State Institute for Public Policy Studies (The Evergreen State College)

- Subsection 609(2), pages 209-210, Recruitment and Retention (Western Washington University)
- Section 725, page 244, Tort Liability Account

I also have concerns about two provisos of this bill that I did not veto:

Subsection 204(1)(j) requires that DSHS reduce funding to the Regional Support Networks based on an excess of specified reserves. Recognizing legislative interests, I am directing DSHS to work with the Regional Support Networks to develop an implementation plan that identifies and best addresses any unintended consequences, were the reserves to be liquidated as planned. The implementation plan will ensure that the total reserve spend-down will result in the necessary general fund savings as required by the appropriations bill.

Subsection 205(1)(b) is an essential component of the settlement in the Arc v. State of Washington case. Although there have been concerns expressed to me regarding the program implications, vetoing this proviso would eliminate the funding needed to phase in service expansions agreed upon in the settlement and would risk continued litigation. The funding assumptions in this subsection, though complicated, will expand services. This subsection also requires a redesign of some elements of the family support, and employment and day programs. Given the complexity of these changes, I am requiring DSHS to work with clients, client advocates, and service providers to develop a plan that best implements these changes and program expansions.

For these reasons, I have vetoed sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e); 207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725; of Engrossed Substitute Senate Bill No. 6387.

With the exception of sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e); 207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725, Engrossed Substitute Senate Bill No. 6387 is approved."

AUTHENTICATION

I, Gary Reid, Acting Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2002 regular session (57th Legislature), chapters 268 through 371, respectively, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 15th day of April, 2002.


GARY REID
Acting Code Reviser

**CONSTITUTIONAL
AMENDMENTS**

FOR NOVEMBER 2002 BALLOT

PROPOSED CONSTITUTIONAL AMENDMENTS, 2002 HJR 4220

**PROPOSED CONSTITUTIONAL AMENDMENT
ADOPTED AT THE 2002 REGULAR SESSION
FOR SUBMISSION TO THE VOTERS
AT THE STATE GENERAL ELECTION, NOVEMBER 2002**

HOUSE JOINT RESOLUTION 4220

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 the secretary of state shall submit to the qualified voters of the state for their approval and ratification, or rejection, an amendment to Article VII, section 2 of the Constitution of the state of Washington to read as follows:

Article VII, section 2. Except as hereinafter provided and notwithstanding any other provision of this Constitution, the aggregate of all tax levies upon real and personal property by the state and all taxing districts now existing or hereafter created, shall not in any year exceed one percent of the true and fair value of such property in money: *Provided, however,* That nothing herein shall prevent levies at the rates now provided by law by or for any port or public utility district. The term "taxing district" for the purposes of this section shall mean any political subdivision, municipal corporation, district, or other governmental agency authorized by law to levy, or have levied for it, ad valorem taxes on property, other than a port or public utility district. Such aggregate limitation or any specific limitation imposed by law in conformity therewith may be exceeded only as follows:

(a) By any taxing district when specifically authorized so to do by a majority of at least three-fifths of the voters of the taxing district voting on the proposition to levy such additional tax submitted not more than twelve months prior to the date on which the proposed levy is to be made and not oftener than twice in such twelve month period, either at a special election or at the regular election of such taxing district, at which election the number of voters voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percent of the total number of voters voting in such taxing district at the last preceding general election when the number of voters voting on the proposition does not exceed forty percent of the total number of voters voting in such taxing district in the last preceding general election; or by a majority of at least three-fifths of the voters of the taxing district voting on the proposition to levy when the number of voters voting on the proposition exceeds forty percent of the number of voters voting in such taxing district in the last preceding general election: *Provided,* That notwithstanding any other provision of this Constitution, any proposition pursuant to this subsection to levy additional tax for the support of the common schools or fire protection districts may provide such support for a period of up to four years and any

HJR 4220 PROPOSED CONSTITUTIONAL AMENDMENTS, 2002

proposition to levy an additional tax to support the construction, modernization, or remodelling of school facilities or fire facilities may provide such support for a period not exceeding six years;

(b) By any taxing district otherwise authorized by law to issue general obligation bonds for capital purposes, for the sole purpose of making the required payments of principal and interest on general obligation bonds issued solely for capital purposes, other than the replacement of equipment, when authorized so to do by majority of at least three-fifths of the voters of the taxing district voting on the proposition to issue such bonds and to pay the principal and interest thereon by annual tax levies in excess of the limitation herein provided during the term of such bonds, submitted not oftener than twice in any calendar year, at an election held in the manner provided by law for bond elections in such taxing district, at which election the total number of voters voting on the proposition shall constitute not less than forty percent of the total number of voters voting in such taxing district at the last preceding general election: *Provided*, That any such taxing district shall have the right by vote of its governing body to refund any general obligation bonds of said district issued for capital purposes only, and to provide for the interest thereon and amortization thereof by annual levies in excess of the tax limitation provided for herein, *And provided further*, That the provisions of this section shall also be subject to the limitations contained in Article VIII, Section 6, of this Constitution;

(c) By the state or any taxing district for the purpose of preventing the impairment of the obligation of a contract when ordered so to do by a court of last resort.

BE IT FURTHER RESOLVED, That the secretary of state shall cause notice of this 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 14, 2002

Passed the Senate March 8, 2002

Filed in the Office of Secretary of State March 12, 2002

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			ESB	6396	238		PV
			ESSB	6400	287		
			SB	6401	30		
			SSB	6402	126		

"PV" Denotes partial veto by Governor [2205]

BILL NO. TO CHAPTER NO. OF 2002 STATUTES

<u>Number</u>		Chapter Number		<u>Number</u>		Chapter Number
		Laws of 2002				Laws of 2002
SHB	1268	354	PV	HB	2365	303
SHB	1395	212		SHB	2366	358
SHB	1397	144		HB	2370	9
ESHB	1411	288		ESHB	2376	286
SHB	1444	207	PV	SHB	2379	170
HB	1460	328		HB	2380	171
2SHB	1477	176		SHB	2381	10
HB	1512	70		SHB	2382	219
SHB	1521	177		HB	2386	186
2SHB	1531	178	PV	HB	2397	220
2SHB	1646	291		EHB	2399	121
SHB	1741	71		SHB	2400	304
SHB	1759	213	PV	HB	2401	77
HB	1856	214		2SHB	2403	356
2SHB	1938	169		HB	2407	124
SHB	2015	90		SHB	2414	92
SHB	2031	179		SHB	2415	78
SHB	2060	294		HB	2421	172
2SHB	2100	72		HB	2425	242
SHB	2160	295		SHB	2426	127
SHB	2169	165		SHB	2432	221
ESHB	2224	357		SHB	2435	222
HB	2284	193		SHB	2437	79
HB	2285	183		HB	2438	80
HB	2286	246		SHB	2441	192
EHB	2288	188		HB	2444	223
HB	2289	215		SHB	2446	161
HB	2299	296		HB	2450	145
SHB	2301	297		ESHB	2451	359
HB	2302	73		ESHB	2453	224
ESHB	2304	5		SHB	2456	305
ESHB	2305	298		SHB	2466	146
SHB	2308	299		HB	2467	81
SHB	2309	160		SHB	2468	289
2SHB	2311	120		ESHB	2470	82
HB	2313	74		HB	2471	83
SHB	2315	216		EHB	2491	135
HB	2317	300		HB	2493	11
HB	2318	91		SHB	2495	84
HB	2320	75		HB	2496	180
ESHB	2323	301		EHB	2498	306
ESHB	2325	217		HB	2501	225
ESHB	2326	250	PV	SHB	2502	251
HB	2332	185	PV	ESHB	2505	340
2SHB	2338	290		ESHB	2506	308
HB	2345	194		2SHB	2511	85
2SHB	2346	302	PV	SHB	2512	86
SHB	2347	198		SHB	2513	226
HB	2352	332		ESHB	2522	285
SHB	2357	218		HB	2526	93
HB	2358	76		HB	2527	94

"PV" Denotes partial veto by Governor [2207]

BILL NO. TO CHAPTER NO. OF 2002 STATUTES

<u>Number</u>	<u>Chapter Number</u> <u>Laws of 2002</u>		<u>Chapter Number</u> <u>Laws of 2002</u>	<u>Number</u>			
SHB	2536	142		ESHB	2819	123	
HB	2537	241		HB	2824	100	
ESHB	2540	34		SHB	2834	101	
SHB	2541	125		EHB	2841	129	
ESHB	2544	360		ESHB	2866	368	PV
HB	2550	227		2SHB	2867	361	
HB	2553	87		SHB	2874	330	
SHB	2557	88		HB	2892	316	
ESHB	2560	195		SHB	2893	236	
SHB	2568	208		SHB	2895	362	
HB	2570	228		EHB	2901	149	PV
HB	2571	95		HB	2902	102	
ESHB	2574	309		HB	2907	167	
HB	2588	96		EHB	2918	369	
SHB	2589	310		SHB	2926	342	
SHB	2592	12		ESHB	2969	202	
HB	2595	341		EHB	2993	329	
HB	2605	97		EHB	3011	317	
SHB	2610	229					
EHB	2623	230					
HB	2625	311					
SHB	2629	98					
HB	2639	181					
HB	2641	150					
SHB	2648	312	PV				
EHB	2655	117					
HB	2657	166					
ESHB	2662	99					
2SHB	2663	337	PV				
HB	2669	191					
E2SHB	2671	153	PV				
HB	2672	173					
SHB	2673	231					
ESHB	2688	313					
2SHB	2697	154					
SHB	2699	232					
ESHB	2707	233					
HB	2715	182					
EHB	2723	114					
HB	2732	314					
SHB	2736	151					
EHB	2748	234					
SHB	2754	338					
SHB	2758	280					
SHB	2765	315					
SHB	2767	252					
EHB	2773	235					
HB	2782	7					
SHB	2800	162					
SHB	2807	204					
HB	2809	122					

"PV" Denotes partial veto by Governor [2208]

RCW SECTIONS AFFECTED BY 2002 STATUTES

LEGEND				RCW		CH.	SEC.
ADD	=	Add a new section		7.06.050	AMD	339	1
AMD	=	Amend existing law		7.06.060	AMD	339	2
DECD	=	Decodify existing law		7.36.250	AMD	338	3
RECD	=	Recodify existing law		7.68.020	AMD	10	3
REEN	=	Reenact existing law		7.68.070	AMD	54	1
REMD	=	Reenact and amend		7.80.130	AMD	175	1
REP	=	Repeal existing law		7.80.160	AMD	175	2
				7.84.110	AMD	175	3
				7.84.130	AMD	175	4
				9.41.070	AMD	302	703
				9.41.800	AMD	302	704
1.20	ADD	293	1	9.46	ADD	252	2,3
1.20	ADD	307	2	9.46	ADD	369	2,3
2.08.180	AMD	137	1	9.46	ADD	253	2,3
2.28.170	AMD	290	13	9.46.0205	AMD	369	1
2.56	ADD	49	3	9.46.070	AMD	119	1
2.56.030	AMD	49	2	9.46.100	AMD	371	901
3	ADD	237	1-6	9.46.196	AMD	253	1
3.34.010	AMD	138	1	9.68A.011	AMD	70	1
3.34.020	AMD	83	1	9.68A.080	AMD	70	2
3.34.060	AMD	136	1	9.94A	ADD	290	8,9
3.50.040	AMD	136	2				11,25
3.66.070	AMD	59	1	9.94A.030	REMD	107	2
4.16	ADD	323	8	9.94A.030	REMD	175	5
4.16.020	AMD	261	2	9.94A.470	AMD	290	14
4.16.310	AMD	323	9	9.94A.475	AMD	290	15
4.24	ADD	68	3	9.94A.480	AMD	290	16
4.24	ADD	336	1-3	9.94A.505	AMD	290	17
4.24.510	AMD	232	2	9.94A.505	AMD	289	6
4.24.550	REMD	118	1	9.94A.505	AMD	175	6
4.56.200	AMD	261	3	9.94A.510	REMD	290	10
4.92.006	AMD	332	10	9.94A.515	REMD	290	2
4.92.040	AMD	332	11	9.94A.515	REMD	290	7
4.92.100	AMD	332	12	9.94A.515	REMD	340	2
4.92.110	AMD	332	13	9.94A.515	REMD	229	2
4.92.130	AMD	332	14	9.94A.515	REMD	253	4
4.92.150	AMD	332	15	9.94A.515	REMD	133	4
4.92.160	AMD	332	16	9.94A.515	REMD	134	2
4.92.210	AMD	332	17	9.94A.515	REMD	324	2
4.92.220	AMD	332	18	9.94A.525	AMD	290	3
4.92.230	AMD	332	19	9.94A.525	AMD	107	3
4.92.240	AMD	332	20	9.94A.530	AMD	290	18
4.92.270	AMD	332	21	9.94A.535	AMD	169	1
5	ADD	334	1	9.94A.585	AMD	290	19
5.44.140	AMD	302	701	9.94A.589	AMD	175	7
5.62.030	AMD	302	702	9.94A.605	AMD	134	3
6.15.010	AMD	265	1	9.94A.634	AMD	175	8
6.15.050	AMD	265	2	9.94A.637	AMD	16	2
6.17.020	AMD	261	1	9.94A.650	AMD	175	9
6.27.160	AMD	265	3	9.94A.660	AMD	290	20
6.32.350	AMD	30	2	9.94A.660	AMD	175	10
6.36.025	AMD	261	4	9.94A.670	AMD	175	11
7.06	ADD	339	3	9.94A.680	AMD	175	12
7.06.010	AMD	338	1				

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.
9.94A.700	AMD	175	13	11.104.010	REP 345 601
9.94A.720	AMD	175	14	11.104.020	REP 345 601
9.94A.728	AMD	290	21	11.104.030	REP 345 601
9.94A.728	AMD	50	2	11.104.040	REP 345 601
9.94A.737	AMD	175	15	11.104.050	REP 345 601
9.94A.850	AMD	290	22	11.104.060	REP 345 601
9.94A.850	AMD	237	16	11.104.070	REP 345 601
9.94A.850	AMD	175	16	11.104.071	REP 345 601
9.95.011	AMD	174	2	11.104.080	REP 345 601
9.95.420	AMD	174	1	11.104.090	REP 345 601
9.95.435	AMD	175	17	11.104.100	REP 345 601
9.96.050	AMD	16	3	11.104.110	REP 345 601
9A.42	ADD	170	1	11.104.120	REP 345 601
9A.42	ADD	219	2,5	11.104.130	REP 345 601
9A.42	ADD	229	1	11.104.900	REP 345 601
9A.42.040	AMD	219	3	11.104.901	REP 345 601
9A.42.045	AMD	219	4	11.104.910	REP 345 601
9A.42.060	AMD	331	3	11.104.920	REP 345 601
9A.42.070	AMD	331	4	11.104.930	REP 345 601
9A.42.080	AMD	331	5	11.104.940	REP 345 601
9A.44.130	REMD	31	1	13.34	ADD 331 2
9A.44.140	AMD	25	1	13.34.025	AMD 52 2
9A.48	ADD	340	1	13.34.030	AMD 52 3
9A.48.010	AMD	32	1	13.34.060	AMD 52 4
9A.56.010	AMD	97	1	13.34.130	AMD 52 5
9A.56.070	AMD	324	1	13.34.136	AMD 52 6
9A.56.130	AMD	47	2	13.34.260	AMD 52 7
9A.56.200	AMD	85	1	13.40	ADD 237 9-15
10.01.210	AMD	290	23	13.40.020	AMD 237 7
10.05	ADD	219	12	13.40.020	AMD 175 19
10.05.010	AMD	219	6	13.40.0357	AMD 324 3
10.05.020	AMD	219	7	13.40.0357	AMD 175 20
10.05.030	AMD	219	8	13.40.040	AMD 171 2
10.05.040	AMD	219	9	13.40.080	AMD 237 8
10.05.050	AMD	219	10	13.40.080	AMD 175 21
10.05.120	AMD	219	14	13.40.160	AMD 175 22
10.14	ADD	117	2	13.40.165	AMD 42 1
10.14.040	AMD	117	1	13.40.165	AMD 175 23
10.14.100	AMD	117	3	13.40.180	AMD 175 24
10.14.125	AMD	117	4	13.40.200	AMD 175 25
10.93.020	AMD	128	1	13.40.205	AMD 175 26
10.93.140	AMD	128	2	13.40.210	REMD 175 27
10.98.040	AMD	175	18	13.40.250	AMD 237 19
11.07.010	AMD	18	1	13.40.250	AMD 175 28
11.20.050	AMD	271	1	13.40.320	AMD 354 234
11.96A.030	AMD	66	2	15.13	ADD 215 2
11.98.070	AMD	66	1	15.13.310	AMD 215 1
11.104	ADD	345	101-106	15.13.370	AMD 215 3
			201,202	15.13.470	AMD 215 4
			301-303	15.17.210	AMD 316 1
			401-415	15.17.230	AMD 322 1
			501-506	15.17.240	AMD 322 2
			602-606	15.17.243	AMD 322 4

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.	
15.17.245	REP	322			7,12	
15.24	ADD	313			14-16	
15.24.010	AMD	313			18,19	
15.24.020	AMD	313			24,25	
15.24.040	AMD	313			30,31	
15.24.050	AMD	313			138	
15.24.070	AMD	313	15.65.020	AMD	313	1
15.24.080	AMD	313	15.65.030	REP	313	37
15.24.085	AMD	313	15.65.040	AMD	313	4
15.24.090	AMD	313	15.65.050	AMD	313	5
15.24.100	AMD	313	15.65.060	AMD	313	6
15.24.110	AMD	313	15.65.070	AMD	313	8
15.24.160	AMD	313	15.65.080	REP	313	37
15.24.170	AMD	313	15.65.090	AMD	313	9
15.24.800	AMD	313	15.65.120	AMD	313	10
15.24.802	AMD	313	15.65.170	AMD	313	11
15.24.806	AMD	313	15.65.180	AMD	313	13
15.24.808	AMD	313	15.65.200	AMD	313	17
15.24.812	AMD	313	15.65.220	AMD	313	20
15.24.818	AMD	313	15.65.230	AMD	313	21
15.24.900	AMD	313	15.65.235	AMD	313	22
15.26	ADD	313	15.65.240	AMD	313	23
15.26.130	AMD	313	15.65.250	AMD	313	26
15.26.250	AMD	313	15.65.260	AMD	313	27
15.28	ADD	313	15.65.270	AMD	313	28
			15.65.280	AMD	313	29
		103,109	15.65.375	AMD	313	32
15.28.010	AMD	313	15.65.380	AMD	313	33
15.28.020	AMD	313	15.65.405	REP	313	37
15.28.110	AMD	313	15.65.430	AMD	313	34
15.28.130	AMD	313	15.65.450	AMD	313	35
15.28.250	AMD	313	15.65.460	REP	313	37
15.28.900	REP	313	15.65.570	AMD	313	36
15.44	ADD	313	15.66	ADD	313	38,41
						43,44
		87,91				48-50
		99-101				52,53
15.44.010	AMD	313				55
15.44.020	AMD	313				58-60
15.44.035	AMD	313				39
15.44.037	REP	313	15.66.010	AMD	313	65
15.44.038	AMD	313	15.66.020	REP	313	40
15.44.060	AMD	313	15.66.030	AMD	313	42
15.44.070	AMD	313	15.66.050	AMD	313	45
15.44.080	AMD	313	15.66.060	AMD	313	46
15.44.085	AMD	313	15.66.070	AMD	313	47
15.44.110	AMD	313	15.66.090	AMD	313	51
15.44.140	AMD	313	15.66.110	AMD	313	54
15.44.150	AMD	313	15.66.120	AMD	313	56
15.44.900	REP	313	15.66.130	AMD	313	57
15.58.050	AMD	274	15.66.140	AMD	313	61
15.58.070	AMD	274	15.66.180	AMD	313	62
15.58.070	AMD	274	15.66.185	AMD	313	63
15.58.080	AMD	274	15.66.245	AMD	313	
15.65	ADD	313				
		2,3				

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
15.66.260	AMD	313	64	18.16.020	AMD	111	2
15.76.150	AMD	313	113	18.16.030	AMD	86	213
15.86	ADD	220	7	18.16.030	AMD	111	3
15.86.010	AMD	220	1	18.16.050	REMD	111	4
15.86.020	AMD	220	2	18.16.060	AMD	86	214
15.86.030	AMD	220	3	18.16.060	AMD	111	5
15.86.031	REP	220	8	18.16.090	AMD	111	6
15.86.035	REP	220	8	18.16.100	AMD	111	7
15.86.050	REP	220	8	18.16.110	AMD	111	8
15.86.060	AMD	220	4	18.16.140	AMD	111	9
15.86.070	AMD	220	5	18.16.150	AMD	86	215
15.86.080	REP	220	8	18.16.170	AMD	111	10
15.86.090	AMD	220	6	18.16.175	AMD	86	216
15.86.100	REP	220	8	18.16.175	AMD	111	11
15.88	ADD	313	70,76	18.16.200	AMD	86	217
			110	18.16.200	AMD	111	12
15.88.050	AMD	313	111	18.16.210	AMD	111	13
15.100	ADD	251	4	18.16.240	AMD	111	15
15.100.030	AMD	251	2	18.16.900	AMD	111	17
15.100.040	AMD	251	3	18.20.270	AMD	233	1
16.08.070	AMD	244	1	18.25.005	AMD	225	1
16.08.080	AMD	244	2	18.25.006	AMD	225	2
16.08.100	AMD	244	3	18.27.200	AMD	82	6
16.67	ADD	313	71,77	18.30	ADD	160	5
			79,85	18.30.010	AMD	160	1
			86	18.30.020	AMD	160	2
16.67.020	REP	313	114	18.30.040	AMD	160	3
16.67.030	AMD	313	80	18.30.050	AMD	160	4
16.67.070	AMD	313	81	18.30.080	REP	160	9
16.67.090	AMD	313	82	18.30.090	AMD	160	6
16.67.120	AMD	313	83	18.30.100	AMD	160	7
16.67.122	AMD	313	84	18.30.140	AMD	160	8
17.21.020	AMD	122	1	18.35.010	AMD	310	1
17.21.020	AMD	122	2	18.35.020	AMD	310	2
18	ADD	216	1-10	18.35.030	AMD	310	3
			12	18.35.040	AMD	310	4
18	ADD	86	101-124	18.35.050	AMD	310	5
18.08	ADD	86	205	18.35.060	AMD	310	6
18.08.340	AMD	86	201	18.35.080	AMD	310	7
18.08.380	AMD	86	202	18.35.090	AMD	310	8
18.08.420	AMD	86	203	18.35.095	AMD	310	9
18.08.440	AMD	86	204	18.35.100	AMD	310	10
18.08.450	REP	86	401	18.35.105	AMD	310	11
18.11	ADD	86	212	18.35.110	AMD	310	12
18.11.085	AMD	86	206	18.35.120	AMD	310	13
18.11.095	AMD	86	207	18.35.140	AMD	310	14
18.11.100	AMD	86	208	18.35.150	AMD	310	15
18.11.160	AMD	86	209	18.35.161	AMD	310	16
18.11.180	AMD	86	210	18.35.172	AMD	310	17
18.11.200	AMD	86	211	18.35.175	AMD	310	18
18.16	ADD	86	218	18.35.185	AMD	310	19
18.16	ADD	111	14,16	18.35.190	AMD	310	20
18.16.010	AMD	111	1	18.35.195	AMD	310	21

RCW SECTIONS AFFECTED BY 2002 STATUTES

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
18.35.205	AMD	310	22	18.106.180	AMD	82	3
18.35.230	AMD	310	23	18.106.250	AMD	82	4
18.35.240	AMD	310	24	18.108	ADD	277	3
18.35.250	AMD	310	25	18.108.010	AMD	277	1
18.35.260	AMD	310	26	18.108.050	AMD	277	2
18.39	ADD	86	223	18.130.040	AMD	216	11
18.39.300	AMD	86	219	18.130.040	AMD	223	6
18.39.350	AMD	86	220	18.140	ADD	86	241
18.39.400	REP	86	401				242
18.39.410	AMD	86	221	18.140.030	AMD	86	238
18.39.430	REP	86	401	18.140.160	AMD	86	239
18.39.440	REP	86	401	18.140.170	AMD	86	240
18.39.460	REP	86	401	18.140.180	REP	86	401
18.39.470	REP	86	401	18.145	ADD	86	244
18.39.480	REP	86	401	18.145.050	REMD	86	243
18.39.490	REP	86	401	18.165	ADD	86	247
18.39.500	REP	86	401	18.165.160	AMD	86	245
18.39.510	REP	86	401	18.165.170	AMD	86	246
18.39.520	REP	86	401	18.165.190	REP	86	401
18.39.530	AMD	86	222	18.165.200	REP	86	401
18.39.540	REP	86	401	18.165.240	REP	86	401
18.39.550	REP	86	401	18.165.250	REP	86	401
18.43	ADD	86	228	18.165.260	REP	86	401
18.43.035	AMD	86	224	18.170	ADD	86	250
18.43.105	AMD	86	225	18.170.170	AMD	86	248
18.43.110	AMD	86	226	18.170.180	AMD	86	249
18.43.130	AMD	86	227	18.170.190	REP	86	401
18.43.140	REP	86	401	18.170.200	REP	86	401
18.48.010	REP	223	2	18.170.240	REP	86	401
18.48.020	REP	223	2	18.170.250	REP	86	401
18.48.030	REP	223	2	18.170.260	REP	86	401
18.48.050	REP	223	2	18.170.270	REP	86	401
18.48.060	REP	223	2	18.185	ADD	86	255
18.64.246	AMD	96	1	18.185.110	AMD	86	251
18.85	ADD	86	233	18.185.120	AMD	86	252
18.85.040	AMD	86	229	18.185.140	AMD	86	253
18.85.230	AMD	86	230	18.185.150	REP	86	401
18.85.251	REP	86	401	18.185.160	REP	86	401
18.85.261	AMD	86	231	18.185.170	AMD	86	254
18.85.271	AMD	86	232	18.185.180	REP	86	401
18.85.360	REP	86	401	18.185.190	REP	86	401
18.85.540	AMD	294	5	18.210	ADD	86	260
18.92	ADD	157	1,2	18.210.020	AMD	86	256
18.96	ADD	86	237	18.210.030	AMD	86	257
18.96.060	AMD	86	234	18.210.060	AMD	86	258
18.96.120	AMD	86	235	18.210.160	AMD	86	259
18.96.130	REP	86	401	18.220	ADD	86	265
18.96.140	AMD	86	236	18.220.040	AMD	86	261
18.104.020	AMD	48	1	18.220.050	AMD	86	262
18.104.055	AMD	48	2	18.220.130	AMD	86	263
18.106	ADD	82	5	18.220.150	AMD	86	264
18.106.010	AMD	82	1	19	ADD	90	1-4
18.106.020	AMD	82	2	19	ADD	115	1-4

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
19	ADD	131	1-16	19.158.050	AMD	86	285
19.09.020	AMD	74	1	19.158.060	REP	86	401
19.09.075	AMD	74	2	21.20	ADD	65	8
19.09.279	AMD	74	3	21.20.005	AMD	65	1
19.16	ADD	86	268	21.20.020	AMD	65	2
19.16.120	AMD	86	266	21.20.040	AMD	65	3
19.16.351	AMD	86	267	21.20.110	AMD	65	4
19.16.360	REP	86	401	21.20.310	AMD	65	5
19.16.380	REP	86	401	21.20.370	AMD	65	6
19.16.400	REP	86	401	21.20.380	AMD	65	7
19.27.060	REMD	135	1	23B.01.200	AMD	297	1
19.28.006	AMD	249	1	23B.01.202	AMD	297	2
19.28.041	AMD	249	2	23B.01.220	AMD	297	3
19.28.061	AMD	249	3	23B.01.230	AMD	297	4
19.28.161	AMD	249	4	23B.01.240	AMD	297	5
19.28.191	AMD	249	5	23B.01.250	AMD	297	6
19.28.201	AMD	249	6	23B.01.260	AMD	297	7
19.28.211	AMD	249	7	23B.01.270	AMD	297	8
19.28.241	AMD	249	8	23B.01.400	AMD	296	1
19.29A.090	AMD	285	6	23B.01.400	AMD	297	9
19.29A.090	AMD	191	1	23B.01.410	AMD	297	10
19.31	ADD	86	271	23B.02.020	AMD	297	11
19.31.070	AMD	86	269	23B.02.032	AMD	297	12
19.31.130	AMD	86	270	23B.02.050	AMD	297	13
19.98	ADD	236	1,9-14	23B.04.035	AMD	297	14
19.98.010	AMD	236	2	23B.05.010	AMD	297	15
19.98.020	AMD	236	3	23B.05.020	AMD	297	16
19.98.030	AMD	236	4	23B.06.030	AMD	297	17
19.98.040	AMD	236	5	23B.06.260	AMD	297	18
19.98.100	AMD	236	6	23B.06.300	AMD	297	19
19.98.110	REP	236	15	23B.07.010	AMD	297	20
19.98.120	AMD	236	7	23B.07.020	AMD	297	21
19.98.130	AMD	236	8	23B.07.030	AMD	297	22
19.105	ADD	86	276	23B.07.040	AMD	297	23
19.105.350	AMD	86	272	23B.07.060	AMD	297	24
19.105.380	AMD	86	273	23B.07.220	AMD	297	25
19.105.440	AMD	86	274	23B.07.240	AMD	297	26
19.105.460	REP	86	401	23B.08.030	AMD	297	27
19.105.470	AMD	86	275	23B.08.070	AMD	297	28
19.138	ADD	86	283	23B.08.210	AMD	297	29
19.138.120	AMD	86	277	23B.08.230	AMD	297	30
19.138.130	AMD	86	278	23B.08.240	AMD	297	31
19.138.170	AMD	86	279	23B.08.600	AMD	297	32
19.138.180	AMD	86	280	23B.10.012	AMD	297	33
19.138.190	REP	86	401	23B.11.040	AMD	297	34
19.138.200	AMD	86	281	23B.13.030	AMD	297	35
19.138.210	REP	86	401	23B.13.200	AMD	297	36
19.138.220	REP	86	401	23B.13.210	AMD	297	37
19.138.230	REP	86	401	23B.13.220	AMD	297	38
19.138.240	AMD	86	282	23B.13.230	AMD	297	39
19.138.300	REP	86	401	23B.13.280	AMD	297	40
19.158	ADD	86	286	23B.14.392	AMD	297	41
19.158.040	AMD	86	284	23B.15.032	AMD	297	42

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RCW		CH.	SEC.	RCW		CH.	SEC.
23B.15.070	AMD	297	43	26.21.265	REP	198	901
23B.15.080	AMD	297	44	26.21.275	REP	198	901
23B.16.010	AMD	297	45	26.21.285	REP	198	901
23B.16.020	AMD	297	46	26.21.295	REP	198	901
23B.16.200	AMD	297	47	26.21.305	REP	198	901
24.03	ADD	74	5,6	26.21.315	REP	198	901
24.03.005	AMD	74	4	26.21.325	REP	198	901
24.03.145	AMD	74	7	26.21.335	REP	198	901
24.03.175	AMD	74	8	26.21.345	REP	198	901
24.03.183	AMD	74	9	26.21.355	REP	198	901
24.03.200	AMD	74	10	26.21.365	REP	198	901
24.03.245	AMD	74	11	26.21.375	REP	198	901
24.03.325	AMD	74	12	26.21.385	REP	198	901
24.03.330	AMD	74	13	26.21.420	REP	198	901
24.03.375	AMD	74	14	26.21.450	REP	198	901
25.10.010	AMD	296	2	26.21.452	REP	198	901
25.15	ADD	74	15	26.21.453	REP	198	901
25.15.005	AMD	296	3	26.21.455	REP	198	901
25.15.020	AMD	74	16	26.21.456	REP	198	901
25.15.085	AMD	74	17	26.21.458	REP	198	901
25.15.095	AMD	74	18	26.21.460	REP	198	901
25.15.325	AMD	74	19	26.21.480	REP	198	901
26.09.170	AMD	199	1	26.21.490	REP	198	901
26.09.175	AMD	199	2	26.21.500	REP	198	901
26.20.030	AMD	331	6	26.21.510	REP	198	901
26.20.035	AMD	331	7	26.21.520	REP	198	901
26.21	ADD	198	101-104	26.21.530	REP	198	901
			201-211	26.21.540	REP	198	901
			301-319	26.21.550	REP	198	901
			401	26.21.560	REP	198	901
			501-507	26.21.570	REP	198	901
			601-614	26.21.580	REP	198	901
			615,701	26.21.590	REP	198	901
			801,802	26.21.595	REP	198	901
			902-904	26.21.600	REP	198	901
26.21.005	REP	198	901	26.21.620	REP	198	901
26.21.015	REP	198	901	26.21.640	REP	198	901
26.21.025	REP	198	901	26.21.650	REP	198	901
26.21.075	REP	198	901	26.21.912	REP	198	901
26.21.085	REP	198	901	26.21.913	REP	198	901
26.21.095	REP	198	901	26.21.914	REP	198	901
26.21.105	REP	198	901	26.21.915	REP	198	901
26.21.115	REP	198	901	26.21.916	REP	198	901
26.21.127	REP	198	901	26.23.130	AMD	199	3
26.21.135	REP	198	901	26.26	ADD	302	101-106
26.21.145	REP	198	901				201-204
26.21.155	REP	198	901				301-316
26.21.205	REP	198	901				401-411
26.21.215	REP	198	901				501-512
26.21.225	REP	198	901				521-524
26.21.235	REP	198	901				531-537
26.21.245	REP	198	901				601-609
26.21.255	REP	198	901				709,710

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
			712,713	28A.320	ADD	237	18
26.26.010	REP	302	711	28A.320	ADD	206	1
26.26.020	REP	302	711	28A.320.330	AMD	275	2
26.26.030	AMD	13	1	28A.400.100	AMD	78	1
26.26.030	REP	302	711	28A.400.200	AMD	353	2
26.26.035	REP	302	711	28A.405.900	AMD	26	1
26.26.040	REP	302	711	28A.410.200	AMD	92	1
26.26.050	AMD	13	2	28A.410.220	AMD	92	2
26.26.050	REP	302	711	28A.500.030	AMD	317	4
26.26.060	REP	302	711	28A.600	ADD	207	4
26.26.070	REP	302	711	28A.600.300	AMD	80	1
26.26.080	REP	302	711	28A.655.030	AMD	37	1
26.26.090	REP	302	711	28A.655.050	REP	132	1
26.26.100	REP	302	711	28B	ADD	151	1-4,7
26.26.110	REP	302	711	28B	ADD	204	1-6
26.26.120	REP	302	711	28B.10.022	AMD	151	5
26.26.137	REP	302	711	28B.10.802	AMD	187	1
26.26.170	REP	302	711	28B.12.030	AMD	187	2
26.26.180	REP	302	711	28B.12.060	AMD	354	224
26.26.200	REP	302	711	28B.15.012	AMD	186	2
26.26.900	REP	302	711	28B.15.012	REMD	186	1
26.26.901	REP	302	711	28B.15.0139	AMD	130	3
26.26.905	REP	302	711	28B.16.015	REP	354	403
26.44	ADD	208	1	28B.30	ADD	250	2-4
26.44.130	AMD	219	11	28B.30.730	AMD	238	302
26.44.200	AMD	134	4	28B.50.360	AMD	238	303
26.50.125	AMD	117	5	28B.50.837	AMD	371	902
27.04	ADD	342	1	28B.80.390	AMD	129	1
27.04.010	AMD	342	2	28B.80.390	AMD	348	1
27.04.020	REP	342	7	28B.80.400	AMD	129	2
27.04.030	REP	342	7	28B.80.805	AMD	130	1
27.04.045	AMD	342	3	28B.80.806	AMD	130	2
27.04.055	AMD	342	4	28B.80.807	AMD	130	4
27.48	ADD	167	2	28B.101.040	REMD	186	3
27.53	ADD	211	4	29.04	ADD	21	2
27.53.020	AMD	211	2	29.07.025	AMD	185	3
27.53.060	AMD	211	3	29.13.020	AMD	43	2
27.53.080	AMD	211	5	29.15	ADD	140	2,3
28A.150	ADD	291	2	29.15.010	AMD	140	1
28A.150.305	AMD	291	1	29.15.030	AMD	140	4
28A.150.410	AMD	353	1	29.15.190	AMD	108	1
28A.185	ADD	234	1	29.79	ADD	139	1
28A.210	ADD	101	1	29.81.250	AMD	139	2
28A.210	ADD	350	1,2,4	31.04.102	AMD	346	1
28A.225	ADD	214	1	34.05	ADD	68	10
28A.225.090	REMD	175	29	34.05.030	AMD	354	225
28A.230.120	AMD	35	1	34.12.020	AMD	354	226
28A.235.120	AMD	36	1	35	ADD	79	1-6
28A.300	ADD	309	6	35.21	ADD	286	15
28A.300	ADD	237	17	35.21	ADD	67	16
28A.305.130	AMD	205	3	35.21.209	AMD	175	30
28A.305.170	AMD	291	3	35.21.280	AMD	363	5
28A.320	ADD	205	2	35.21.710	AMD	179	1

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RCW		CH.	SEC.	RCW		CH.	SEC.
35.21.712	AMD	179	2	35.81.170	AMD	218	19
35.21.714	AMD	67	9	35.81.180	AMD	218	20
35.21.717	AMD	181	1	35.81.910	AMD	218	21
35.21.730	AMD	218	23	35.82.070	AMD	218	22
35.21.745	AMD	218	24	35.82.300	AMD	258	1
35.22.620	AMD	94	1	35.84.060	AMD	5	409
35.22.650	AMD	307	3	35.87A	ADD	69	1
35.23.352	AMD	94	2	35.92.010	AMD	102	2
35.45.030	AMD	41	1	35.92.050	AMD	102	3
35.45.070	AMD	41	2	35.92.360	AMD	276	2
35.45.080	AMD	41	3	35A.21	ADD	286	16
35.50.030	AMD	168	1	35A.21.220	AMD	175	31
35.54.010	AMD	41	4	35A.63.060	AMD	189	2
35.57.010	AMD	363	1	35A.82.050	AMD	179	3
35.57.020	AMD	218	25	35A.82.055	AMD	179	4
35.57.020	AMD	363	2	35A.82.060	AMD	67	10
35.58.273	REP	6	2	36	ADD	248	1-6
35.58.274	REP	6	2				8-14
35.58.275	REP	6	2	36.16.139	AMD	175	32
35.58.276	REP	6	2	36.18.010	AMD	294	3
35.58.277	REP	6	2	36.18.016	AMD	338	2
35.58.278	REP	6	2	36.22	ADD	294	2
35.58.279	REP	6	2	36.22.110	AMD	141	1
35.58.2791	REP	6	2	36.23.030	AMD	30	1
35.58.2792	REP	6	2	36.29.010	AMD	168	4
35.61.010	AMD	88	1	36.32	ADD	286	17
35.61.020	AMD	88	2	36.56	ADD	5	410
35.61.030	AMD	88	3	36.57A	ADD	5	411
35.61.040	AMD	88	4	36.70A	ADD	212	1
35.61.050	AMD	88	5	36.70A.020	AMD	154	1
35.61.150	AMD	88	6	36.70A.070	AMD	212	2
35.63.060	AMD	189	1	36.70A.070	AMD	154	2
35.75.020	AMD	247	8	36.70A.103	AMD	68	15
35.79.030	AMD	55	1	36.70A.130	AMD	320	1
35.81	ADD	218	10,13	36.70A.200	AMD	68	2
			14	36.70A.367	AMD	306	1
35.81.010	AMD	218	1	36.71.090	AMD	301	9
35.81.010	RECD	218	30	36.75.035	AMD	60	1
35.81.020	AMD	218	2	36.78	ADD	5	416
35.81.020	RECD	218	30	36.80.010	AMD	9	1
35.81.030	AMD	218	3	36.94.230	AMD	168	2
35.81.040	AMD	218	4	36.100.010	AMD	218	26
35.81.050	AMD	218	5	36.100.040	AMD	178	5
35.81.060	AMD	218	6	38.52	ADD	341	6
35.81.070	AMD	218	7	38.52.010	AMD	341	2
35.81.080	AMD	218	8	38.52.105	AMD	371	903
35.81.090	AMD	218	9	38.52.106	AMD	371	904
35.81.100	AMD	218	11	38.52.530	AMD	341	3
35.81.110	AMD	218	12	38.52.540	AMD	341	4
35.81.120	AMD	218	15	38.52.540	AMD	371	905
35.81.130	AMD	218	16	38.52.550	AMD	341	5
35.81.150	AMD	218	17	38.52.560	REP	341	13
35.81.160	AMD	218	18	39.04.133	AMD	299	2

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RCW		CH.	SEC.	RCW		CH.	SEC.
39.10.051	AMD	46	1	41.06.110	AMD	354	210
39.10.061	AMD	46	2	41.06.140	REP	354	402
39.10.067	AMD	46	3	41.06.150	AMD	354	202
39.10.902	AMD	46	4	41.06.150	AMD	354	203
39.12	ADD	5	306	41.06.150	AMD	371	906
39.12.070	AMD	5	307	41.06.150	AMD	110	1
39.12.080	AMD	5	308	41.06.152	AMD	354	240
39.19	ADD	305	2	41.06.152	AMD	354	241
39.29	ADD	260	7-10	41.06.160	AMD	354	211
39.29.006	AMD	354	235	41.06.163	REP	354	401
39.29.040	AMD	260	11	41.06.165	REP	354	401
39.29.040	AMD	200	2	41.06.167	AMD	354	212
39.30.060	AMD	163	2	41.06.170	AMD	354	213
39.35B	ADD	285	4	41.06.186	AMD	354	215
39.42.060	AMD	202	513	41.06.196	AMD	354	216
39.42.060	AMD	240	7	41.06.270	AMD	354	217
39.42.070	AMD	240	8	41.06.340	AMD	354	232
39.46.070	AMD	114	22	41.06.350	AMD	354	218
39.59.010	AMD	332	22	41.06.380	AMD	5	204
39.89	ADD	12	3	41.06.380	REP	354	403
39.89.030	AMD	12	1	41.06.382	REP	354	403
39.89.040	AMD	12	2	41.06.400	AMD	354	219
39.89.901	REP	12	4	41.06.410	AMD	354	220
39.94.040	AMD	151	6	41.06.450	AMD	354	221
40.06.020	AMD	342	5	41.06.475	AMD	354	222
40.06.040	AMD	342	6	41.06.490	AMD	354	223
40.14.020	AMD	358	4	41.06.500	AMD	354	242
41	ADD	354	301-322	41.06.500	AMD	354	243
41	ADD	356	1,3,4	41.06.520	REP	354	402
			6-23	41.12.050	AMD	143	1
41.04	ADD	292	2	41.12.060	REP	143	2
41.04	ADD	319	2,3	41.16.030	AMD	15	1
41.04	ADD	61	3,4	41.24.050	AMD	11	1
41.04.005	AMD	292	1	41.26	ADD	158	4
41.04.005	AMD	27	1	41.26.030	REMD	128	3
41.04.010	AMD	292	4	41.26.160	AMD	158	1
41.04.035	AMD	61	1	41.26.161	AMD	158	2
41.04.036	AMD	61	2	41.26.162	AMD	158	3
41.04.230	AMD	61	5	41.26.460	AMD	158	7
41.04.340	REMD	354	227	41.26.520	AMD	28	1
41.04.385	AMD	354	236	41.32.530	AMD	158	8
41.05	ADD	71	1	41.32.785	AMD	158	9
41.05.021	AMD	142	1	41.32.851	AMD	158	10
41.05.050	REMD	142	2	41.35.220	AMD	158	11
41.05.050	REMD	319	4	41.35.510	AMD	26	7
41.05.065	AMD	142	3	41.35.700	AMD	26	6
41.05.075	REMD	142	4	41.40	ADD	269	1
41.06	ADD	354	204-206	41.40.150	AMD	62	1
			208,233	41.40.170	AMD	27	2
41.06.022	AMD	354	207	41.40.188	AMD	158	12
41.06.030	AMD	354	201	41.40.660	AMD	158	13
41.06.070	AMD	354	209	41.40.795	AMD	159	1
41.06.079	AMD	354	239	41.40.845	AMD	158	14

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RCW		CH.	SEC.	RCW		CH.	SEC.
41.45	ADD	7	1	43	ADD	240	1-6
41.45.010	AMD	26	3	43	ADD	365	1-13
41.45.020	REMD	26	4	43.01.090	AMD	162	1
41.45.050	AMD	26	5	43.06.425	AMD	354	229
41.45.053	REP	7	2	43.06.460	AMD	87	1
41.45.060	REEN	26	2	43.07	ADD	358	3
41.50.670	AMD	158	5	43.07.170	AMD	74	20
41.50.700	AMD	158	6	43.09.240	AMD	168	3
41.50.790	AMD	26	8	43.10.220	AMD	371	907
41.50.804	AMD	354	228	43.19	ADD	166	2
41.50.804	REP	354	402	43.19.025	AMD	332	3
41.56	ADD	34	2	43.19.190	AMD	200	3
41.56	ADD	99	1	43.19.1905	AMD	299	5
41.56	ADD	3	12	43.19.1905	AMD	285	1
41.56.023	REP	354	403	43.19.1906	REMD	332	4
41.56.030	REMD	99	2	43.19.1935	AMD	332	5
41.56.201	AMD	354	249	43.19.1935	RECD	332	25
41.56.201	REP	354	403	43.19.1936	AMD	332	6
41.64.010	REP	354	404	43.19.1936	RECD	332	25
41.64.020	REP	354	404	43.19.19361	RECD	332	25
41.64.030	REP	354	404	43.19.19362	AMD	332	7
41.64.040	REP	354	404	43.19.19362	RECD	332	25
41.64.050	REP	354	404	43.19.19363	RECD	332	25
41.64.060	REP	354	404	43.19.19364	RECD	332	25
41.64.070	REP	354	404	43.19.19367	AMD	332	8
41.64.080	REP	354	404	43.19.19367	RECD	332	25
41.64.090	REP	354	404	43.19.19368	RECD	332	25
41.64.100	REP	354	404	43.19.19369	AMD	332	9
41.64.110	REP	354	404	43.19.19369	RECD	332	25
41.64.120	REP	354	404	43.19.540	RECD	332	25
41.64.130	REP	354	404	43.19.570	AMD	285	2
41.64.140	REP	354	404	43.19.637	AMD	285	3
41.64.910	REP	354	404	43.20	ADD	161	1
42.12.040	AMD	108	2	43.20A	ADD	290	6
42.17	ADD	235	4	43.20A	ADD	233	2
42.17	ADD	43	4	43.21A.130	AMD	364	1
42.17.020	AMD	75	1	43.21C	ADD	93	2
42.17.080	AMD	75	2	43.21C	ADD	68	12
42.17.310	REMD	172	1	43.21G.040	AMD	192	2
42.17.310	REMD	224	2	43.22	ADD	268	4,5
42.17.310	REMD	205	4	43.22.335	AMD	268	9
42.17.310	REMD	335	1	43.22.340	AMD	268	6
42.17.31907	AMD	313	66	43.22.432	AMD	268	7
42.17.680	AMD	156	1	43.22.434	AMD	268	2
42.44	ADD	86	292	43.22.434	AMD	268	3
42.44.030	AMD	86	287	43.23	ADD	313	78,112
42.44.060	AMD	86	288	43.23.010	AMD	354	244
42.44.160	AMD	86	289	43.30.360	AMD	371	908
42.44.170	AMD	86	290	43.31	ADD	351	1
42.44.190	AMD	86	291	43.33A.020	AMD	303	1
42.52.800	AMD	167	3	43.33A.040	AMD	303	2
43	ADD	153	1-8	43.34	ADD	164	1
			10-12	43.41	ADD	332	25

RCW SECTIONS AFFECTED BY 2002 STATUTES

<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
43.41	ADD	333	2,3	44.40.025	AMD	202	113
43.41.110	AMD	332	23	44.40.030	AMD	202	114
43.43	ADD	289	1,4,5	44.40.040	AMD	202	115
43.43.260	AMD	27	3	44.40.070	AMD	202	116
43.43.270	AMD	158	15	44.40.090	AMD	202	117
43.43.271	AMD	158	16	44.40.100	AMD	202	118
43.43.540	AMD	118	2	44.40.140	AMD	202	119
43.43.754	AMD	289	2	44.40.150	AMD	202	120
43.43.759	AMD	289	3	46.01	ADD	352	27
43.43.760	AMD	115	5	46.04	ADD	202	201
43.43.830	AMD	229	3	46.04	ADD	264	2
43.63A.690	AMD	305	3	46.04	ADD	247	1
43.72.900	AMD	371	909	46.04.320	AMD	247	2
43.72.900	AMD	2	2	46.04.330	AMD	247	3
43.79.480	AMD	365	15	46.04.332	AMD	247	4
43.79A.040	REMD	204	7	46.04.670	AMD	247	5
43.79A.040	REMD	322	5	46.09.070	AMD	352	1
43.79A.040	REMD	61	6	46.09.170	AMD	202	310
43.83B.430	AMD	371	910	46.10.040	AMD	352	2
43.84.092	REMD	242	2	46.10.170	AMD	202	311
43.84.092	REMD	114	24	46.12.005	AMD	245	1
43.84.092	REMD	202	205	46.12.040	AMD	352	3
43.84.092	REMD	56	402	46.12.047	AMD	246	1
43.86A.060	AMD	305	1	46.12.070	AMD	245	2
43.88	ADD	312	1	46.12.080	AMD	352	4
43.88.030	AMD	371	911	46.12.101	AMD	279	1
43.88.160	AMD	260	1	46.12.102	AMD	279	2
43.101	ADD	14	2,3	46.12.170	REMD	352	5
43.110.050	AMD	38	1	46.12.181	AMD	352	6
43.110.060	AMD	38	4	46.16	ADD	264	3
43.131	ADD	153	13,14	46.16.015	AMD	24	1
43.131.090	AMD	354	230	46.16.0621	AMD	352	7
43.131.381	AMD	305	4	46.16.065	REP	352	28
43.131.382	AMD	305	5	46.16.070	AMD	202	202
43.135	ADD	290	5	46.16.160	AMD	168	5
43.135	ADD	202	404	46.16.160	AMD	352	8
43.135.035	REMD	33	1	46.16.381	AMD	175	33
43.135.045	REMD	33	2	46.16.630	AMD	352	9
43.155	ADD	329	11	46.20.027	AMD	292	3
43.160	ADD	242	3	46.20.031	AMD	279	3
43.160.060	AMD	242	4	46.20.055	AMD	195	2
43.160.060	AMD	239	1	46.20.055	AMD	352	10
43.185.050	AMD	294	6	46.20.070	AMD	195	3
43.190.040	AMD	100	1	46.20.070	AMD	352	11
43.320.110	AMD	371	912	46.20.100	AMD	195	1
43.330	ADD	294	4	46.20.117	AMD	352	12
44.05.100	AMD	4	1	46.20.120	REMD	352	13
44.39.070	AMD	192	1	46.20.200	AMD	352	14
44.40	ADD	202	101-107	46.20.289	AMD	279	4
44.40.010	AMD	202	109	46.20.293	AMD	352	15
44.40.013	AMD	202	110	46.20.500	AMD	247	6
44.40.015	AMD	202	111	46.20.505	AMD	352	16
44.40.020	AMD	202	112	46.20.510	AMD	352	17

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
46.20.515	AMD	197	1	47.05	ADD	56	302
46.25	ADD	272	1,2				303
46.25.060	AMD	352	18	47.05	ADD	201	809
46.25.090	AMD	193	1	47.05.010	AMD	5	401
46.25.090	AMD	272	3	47.05.021	REMD	56	301
46.25.100	AMD	272	4	47.05.030	AMD	5	402
46.25.120	AMD	272	5	47.05.035	AMD	5	403
46.29.050	AMD	352	19	47.05.051	AMD	5	406
46.30.020	AMD	175	35	47.05.051	AMD	189	3
46.37.100	AMD	196	1	47.06	ADD	5	304
46.44.105	AMD	254	1	47.06.040	AMD	189	4
46.44.170	AMD	168	6	47.06.050	AMD	5	413
46.44.173	AMD	168	7	47.06.090	AMD	5	414
46.44.190	AMD	231	1	47.06.130	AMD	5	404
46.52.020	AMD	194	1	47.08	ADD	201	810
46.52.130	AMD	221	1	47.10	ADD	202	501-512
46.52.130	AMD	352	20	47.12	ADD	188	1
46.55.075	AMD	279	5	47.12	ADD	255	2
46.55.085	AMD	279	6	47.12.063	AMD	255	1
46.55.100	AMD	279	9	47.17	ADD	56	304
46.55.105	AMD	279	10	47.26	ADD	202	305
46.55.110	AMD	279	11	47.26	ADD	189	5
46.55.130	AMD	279	12	47.28	ADD	5	202
46.55.230	AMD	279	13				203
46.61.380	AMD	29	1	47.36	ADD	321	1
46.61.688	AMD	328	1	47.46	ADD	114	4-10
46.61.688	AMD	328	2				12-15
46.61.710	AMD	247	7				25
46.63.030	AMD	279	14	47.46.030	AMD	114	3
46.63.040	AMD	237	20	47.46.040	AMD	114	16
46.63.110	AMD	175	36	47.46.050	AMD	114	17
46.63.110	AMD	279	15	47.46.060	AMD	114	18
46.63.120	AMD	175	37	47.56	ADD	56	403
46.64.055	AMD	175	38	47.56.010	AMD	114	2
46.68	ADD	5	412	47.56.030	AMD	114	19
46.68	ADD	202	204	47.56.075	AMD	56	404
46.68.020	AMD	352	21	47.56.245	AMD	114	23
46.68.030	AMD	352	22	47.56.270	AMD	114	20
46.68.035	AMD	202	203	47.56.271	AMD	114	21
46.68.090	REMD	202	303	48	ADD	357	1-5
46.68.110	REMD	202	304	48	ADD	273	1-10
46.70.061	AMD	352	23				12
46.72	ADD	86	294	48.02.190	AMD	371	913
46.72.100	AMD	86	293	48.05.380	AMD	22	1
46.72A	ADD	86	296	48.06.040	AMD	227	1
46.72A.100	AMD	86	295	48.07.040	AMD	300	5
46.81A.020	AMD	197	2	48.15.070	AMD	227	3
46.82	ADD	195	4	48.17.090	AMD	227	2
46.82.300	AMD	195	5	48.18	ADD	360	1
46.82.310	AMD	352	24	48.18.140	AMD	344	1
46.82.320	AMD	352	25	48.18.2901	AMD	347	1
47.01	ADD	5	303	48.19	ADD	360	2
47.04	ADD	355	1	48.38.020	AMD	295	1

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
48.43.055	AMD	300	6	53.29.030	AMD	145	3
48.43.540	AMD	103	1	53.36	ADD	95	1
48.56.030	AMD	227	4	54.04.070	AMD	72	2
48.62.021	AMD	332	24	54.04.082	AMD	72	1
48.66	ADD	300	4	54.16.280	AMD	276	3
48.66.130	AMD	300	3	57.16	ADD	161	2
48.87.020	AMD	300	1	57.24.210	AMD	76	1
48.87.040	AMD	300	2	58.17.020	AMD	262	1
48.102.015	AMD	227	5	58.17.040	AMD	44	1
49.04	ADD	5	302	59.18.060	AMD	259	1
49.12	ADD	243	2,3	59.18.150	REMD	263	1
49.12.270	AMD	243	1	59.20.060	AMD	63	1
49.28	ADD	112	2-4	59.21	ADD	257	3
49.44	ADD	155	1,2	59.21.010	AMD	257	1
49.46.010	AMD	354	231	59.21.021	AMD	257	2
49.74.030	AMD	354	245	59.21.050	AMD	257	4
49.74.030	AMD	354	246	59.28.040	AMD	30	3
49.74.040	AMD	354	247	60.13.010	AMD	278	1
49.74.040	AMD	354	248	60.13.040	AMD	278	2
50.06.030	AMD	73	1	60.13.060	AMD	278	3
50.16.010	REMD	371	914	64	ADD	323	1-7
50.20	ADD	149	3	64.06.005	AMD	268	8
50.20.050	AMD	8	1	64.34.410	AMD	323	10
50.20.100	AMD	8	2	64.34.452	AMD	323	11
50.20.120	AMD	149	4	64.36	ADD	86	304
50.20.190	AMD	371	915	64.36	ADD	226	2
50.20.240	AMD	8	3	64.36.040	AMD	86	297
50.22.140	AMD	149	1	64.36.070	AMD	226	1
50.22.150	AMD	149	2	64.36.090	AMD	86	298
50.24.010	AMD	149	5	64.36.100	AMD	86	299
50.24.014	AMD	149	13	64.36.180	REP	86	401
50.29	ADD	149	9,10	64.36.190	REP	86	401
50.29.010	AMD	149	11	64.36.195	AMD	86	300
50.29.020	AMD	8	4	64.36.200	AMD	86	301
50.29.020	AMD	149	6	64.36.220	AMD	86	302
50.29.025	AMD	149	7	64.36.230	AMD	86	303
50.29.025	AMD	149	8	64.36.280	REP	86	401
50.29.062	AMD	149	12	64.36.300	REP	86	401
51.12.035	AMD	175	39	66.08.030	AMD	119	2
51.12.045	AMD	175	40	66.08.170	AMD	371	917
51.32.185	AMD	337	2	66.08.190	AMD	38	2
51.44.170	AMD	371	916	66.08.235	AMD	371	918
52.16.050	AMD	165	1	66.20.200	AMD	175	41
52.16.130	AMD	180	3	66.24.010	AMD	119	3
52.16.160	AMD	84	1	66.24.025	AMD	119	4
53.08	ADD	218	27	66.28.010	AMD	109	1
53.08	ADD	286	18	66.44.291	AMD	175	42
53.08.170	AMD	362	1	66.44.325	AMD	175	43
53.08.320	AMD	286	23	67.08	ADD	86	315
53.12.010	AMD	51	1	67.08.002	AMD	147	1
53.29	ADD	145	4	67.08.010	AMD	86	305
53.29.010	AMD	145	1	67.08.015	AMD	86	306
53.29.020	AMD	145	2	67.08.017	AMD	86	307

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
67.08.090	AMD	86	308	70.48.090	AMD	125	1
67.08.090	AMD	147	2	70.48.220	AMD	125	2
67.08.100	AMD	86	309	70.58.080	AMD	302	708
67.08.100	AMD	147	3	70.74.010	AMD	370	1
67.08.110	AMD	86	310	70.74.191	AMD	370	2
67.08.120	REP	86	401	70.74.400	AMD	370	3
67.08.130	AMD	86	311	70.77	ADD	370	7.13
67.08.140	AMD	86	312				20.34
67.08.180	AMD	86	313				48.49
67.08.210	REP	86	401	70.77.126	AMD	370	4
67.08.230	REP	86	401	70.77.131	AMD	370	5
67.08.250	REP	86	401	70.77.136	AMD	370	6
67.08.260	REP	86	401	70.77.141	AMD	370	8
67.08.300	AMD	86	314	70.77.160	AMD	370	9
67.16	ADD	252	4	70.77.170	AMD	370	10
67.28.180	AMD	178	2	70.77.175	AMD	370	11
67.40.090	AMD	178	4	70.77.180	AMD	370	12
67.40.120	AMD	182	1	70.77.205	AMD	370	14
67.70	ADD	252	5	70.77.210	AMD	370	15
67.70	ADD	349	2-4	70.77.215	AMD	370	16
67.70.010	AMD	349	1	70.77.230	AMD	370	17
67.70.260	AMD	371	919	70.77.236	AMD	370	18
68.05	ADD	86	326	70.77.250	AMD	370	19
68.05.105	AMD	86	316	70.77.255	AMD	370	21
68.05.170	AMD	86	317	70.77.270	AMD	370	22
68.05.235	AMD	86	318	70.77.305	AMD	370	23
68.05.259	AMD	86	319	70.77.311	AMD	370	24
68.05.300	AMD	86	320	70.77.315	AMD	370	25
68.05.310	AMD	86	321	70.77.330	AMD	370	26
68.05.320	AMD	86	322	70.77.335	AMD	370	27
68.05.330	AMD	86	323	70.77.340	AMD	370	28
68.05.340	AMD	86	324	70.77.343	AMD	370	29
68.05.350	AMD	86	325	70.77.381	AMD	370	30
68.50.630	REP	45	1	70.77.395	AMD	370	31
69.04	ADD	301	11	70.77.401	AMD	370	32
69.07.100	AMD	301	10	70.77.405	AMD	370	33
69.50.412	AMD	213	1	70.77.420	AMD	370	35
69.50.4121	AMD	213	2	70.77.425	AMD	370	36
69.50.425	AMD	175	44	70.77.435	AMD	370	37
69.50.440	AMD	134	1	70.77.440	AMD	370	38
69.50.520	REMD	371	920	70.77.495	AMD	370	39
69.55.010	AMD	133	1	70.77.510	AMD	370	40
69.55.020	AMD	133	2	70.77.515	AMD	370	41
69.55.030	AMD	133	3	70.77.517	AMD	370	42
69.80	ADD	217	2	70.77.520	AMD	370	43
69.80.050	AMD	217	3	70.77.535	AMD	370	44
70.02.010	AMD	318	1	70.77.555	AMD	370	45
70.37.030	AMD	91	1	70.77.575	AMD	370	46
70.41	ADD	116	3,4	70.77.580	AMD	370	47
70.41.020	AMD	116	2	70.87	ADD	98	10-14
70.44.140	AMD	106	1	70.87.010	AMD	98	1
70.47	ADD	2	1	70.87.020	AMD	98	2
70.48	ADD	124	1	70.87.030	AMD	98	3

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
70.87.050	AMD	98	4	72.40.022	AMD	209	2
70.87.100	AMD	98	5	72.40.024	AMD	209	4
70.87.125	AMD	98	6	72.42	ADD	209	6-9
70.87.145	AMD	98	7	72.42.010	AMD	209	5
70.87.170	AMD	98	8	72.42.020	REP	209	11
70.87.180	AMD	98	9	72.42.025	REP	209	11
70.93.060	AMD	175	45	72.42.030	REP	209	11
70.93.250	REMD	175	46	72.42.040	REP	209	11
70.94	ADD	203	8	72.42.070	AMD	209	10
70.95	ADD	299	9	72.65.050	AMD	126	3
70.95.010	AMD	299	3	73.04.030	AMD	224	3
70.95.030	AMD	299	4	73.04.090	AMD	292	6
70.96A	ADD	290	4	73.08.010	AMD	292	7
70.105D	ADD	288	2	73.08.060	AMD	292	8
70.105D.010	AMD	288	1	73.08.070	AMD	292	9
70.105D.030	AMD	288	3	73.24.030	AMD	292	10
70.105D.050	AMD	288	4	74	ADD	309	1-5
70.114A.110	AMD	23	1	74.08	ADD	252	1
70.115	ADD	213	3	74.08A.100	AMD	366	1
70.116	ADD	161	3	74.08A.270	AMD	89	1
70.127	ADD	3	13	74.09	ADD	3	14
70.128	ADD	223	4	74.09.415	AMD	366	2
70.128.120	AMD	223	1	74.13	ADD	219	13
70.128.220	AMD	223	3	74.13.065	AMD	52	8
70.128.230	AMD	233	3	74.18.230	AMD	71	2
70.146.030	AMD	371	921	74.20.065	AMD	199	4
70.155.080	AMD	175	47	74.20.310	AMD	302	705
70.168.040	AMD	371	922	74.20.360	AMD	302	706
71.05.445	AMD	39	2	74.20A.055	AMD	199	5
71.09	ADD	58	1	74.20A.056	AMD	302	707
71.09	ADD	19	1	74.20A.056	AMD	199	6
71.09	ADD	68	7,9,11 16-18	74.20A.058	REP	199	8
				74.20A.080	AMD	199	7
71.09.020	AMD	58	2	74.38.070	AMD	270	1
71.09.020	AMD	68	4	74.39A	ADD	3	1-9
71.09.255	AMD	68	8	74.39A.030	AMD	3	10
71.09.285	AMD	68	5	74.39A.095	AMD	3	11
71.09.305	AMD	68	6	74.39A.190	AMD	233	4
71.24	ADD	173	1	74.42	ADD	256	2
71.34.225	AMD	39	1	74.50.050	AMD	64	1
72.01.045	AMD	77	1	76.09	ADD	120	4
72.01.410	AMD	171	1	76.09.020	REMD	17	1
72.09.060	AMD	175	48	76.09.050	AMD	121	1
72.09.100	AMD	354	238	76.09.240	AMD	121	2
72.09.100	AMD	175	49	76.13.110	AMD	120	1
72.09.111	AMD	126	2	76.13.120	AMD	120	2
72.09.240	AMD	77	2	76.13.140	AMD	120	3
72.09.260	AMD	175	50	77.08.010	AMD	281	2
72.11.020	AMD	126	1	77.12	ADD	286	19
72.36.035	AMD	292	5	77.12	ADD	20	2,3
72.40	ADD	208	2	77.12	ADD	281	5,6
72.40	ADD	209	3	77.12.020	AMD	281	3
72.40.010	AMD	209	1	77.12.055	AMD	128	4

RCW SECTIONS AFFECTED BY 2002 STATUTES

RCW		CH.	SEC.	RCW		CH.	SEC.
77.12.670	AMD	283	2	80.01.080	AMD	371	924
77.15	ADD	281	4	80.36.005	AMD	104	1
77.15.080	REMD	281	8	80.36.410	AMD	104	2
77.15.096	AMD	128	5	80.36.470	AMD	104	3
77.15.110	AMD	127	2	80.52.030	AMD	190	1
77.15.290	AMD	281	7	81.77	ADD	299	6
77.15.565	AMD	301	6	81.100.010	AMD	56	409
77.15.620	AMD	301	7	81.100.030	AMD	56	410
77.15.640	AMD	301	8	81.100.060	AMD	56	411
77.32	ADD	266	1	81.104.140	AMD	56	202
77.32.235	REP	266	2	81.112	ADD	5	415
77.32.256	AMD	222	1	82	ADD	267	1-12
77.32.350	AMD	283	1	82.04	ADD	314	2
77.50.010	AMD	311	2	82.04	ADD	67	3,4
77.55	ADD	368	4,5	82.04	ADD	113	1
77.55	ADD	20	4	82.04	ADD	365	14
77.55	ADD	68	14	82.04.050	AMD	178	1
77.55.100	AMD	368	2	82.04.060	AMD	367	1
77.55.110	AMD	368	3	82.04.065	AMD	67	2
77.55.220	AMD	368	7	82.04.190	REMD	367	2
77.65	ADD	301	2-4	82.04.4281	AMD	150	2
77.65.280	AMD	301	5	82.04.4297	AMD	314	3
77.85.010	AMD	210	1	82.04.4453	REP	203	9
77.85.190	AMD	228	1	82.04.4454	REP	203	9
77.120	ADD	282	5	82.08	ADD	67	5
77.120.005	ADD	282	5	82.08	ADD	113	2
77.120.030	AMD	282	2	82.08.020	AMD	202	401
77.120.040	AMD	282	3	82.08.0289	AMD	67	6
77.120.060	AMD	282	4	82.08.170	AMD	38	3
79	ADD	286	1-11	82.12	ADD	113	3
79.24.580	AMD	371	923	82.12.010	AMD	367	3
79.44.040	AMD	260	2	82.12.020	AMD	202	402
79.44.050	AMD	260	3	82.12.020	AMD	367	4
79.44.070	AMD	260	4	82.12.035	AMD	367	5
79.44.080	AMD	260	5	82.12.045	AMD	202	403
79.44.140	AMD	260	6	82.14	ADD	176	1
79.44.180	REP	260	14	82.14	ADD	56	405
79.70.030	AMD	284	1	82.14.020	AMD	67	7
79.70.060	AMD	284	2	82.14.020	AMD	367	6
79.70.080	AMD	284	3	82.14.050	AMD	56	406
79.90	ADD	152	3	82.14.370	AMD	184	1
79.90	ADD	123	2	82.14.390	AMD	363	4
79.90.105	AMD	304	1	82.14B.020	AMD	341	7
79.90.470	AMD	152	2	82.14B.030	AMD	341	8
79.96	ADD	123	3	82.14B.030	AMD	67	8
79A.05.050	AMD	175	52	82.14B.040	AMD	341	9
79A.25.070	AMD	202	312	82.14B.042	AMD	341	10
79A.60	ADD	86	329	82.14B.061	AMD	341	11
79A.60.480	AMD	86	327	82.14B.200	AMD	341	12
79A.60.490	AMD	86	328	82.16.048	REP	203	9
79A.65.010	AMD	286	20	82.16.049	REP	203	9
79A.65.020	AMD	286	21	82.21.020	AMD	105	1
79A.65.030	AMD	286	22	82.24	ADD	2	3

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RCW		CH.	SEC.	RCW		CH.	SEC.
82.26	ADD	325	5	89.08.190	AMD	43	3
82.26	ADD	2	4	89.12	ADD	330	3,4
82.26.010	AMD	325	1	90.03	ADD	329	2
82.26.020	AMD	325	2	90.03.370	AMD	329	10
82.26.025	AMD	325	3	90.38.020	AMD	329	7
82.26.030	AMD	325	4	90.42.040	AMD	329	8
82.29A.080	AMD	371	925	90.42.080	AMD	329	9
82.29A.090	AMD	177	1	90.46	ADD	329	6
82.32	ADD	202	405	90.46.010	AMD	329	3
82.32	ADD	57	1	90.46.030	AMD	329	4
82.32	ADD	56	407	90.46.130	AMD	329	5
82.32	ADD	67	11-15	90.48.020	AMD	161	4
			17	90.48.110	AMD	161	5
82.36.025	REMD	202	301	90.48.465	AMD	361	2
82.38.020	AMD	183	1	90.54	ADD	329	1
82.38.030	AMD	183	2	90.58	ADD	298	1
82.38.030	AMD	202	302	90.58	ADD	68	13
82.38.035	AMD	202	306	90.58.030	AMD	230	2
82.38.045	AMD	202	307	90.64.030	AMD	327	1
82.38.047	AMD	202	308				
82.38.065	AMD	183	3				
82.38.075	AMD	202	309				
82.38.110	AMD	352	26				
82.38.170	AMD	183	4				
82.46	ADD	343	1				
82.80	ADD	56	408				
			415				
82.80.030	AMD	56	412				
82.80.070	AMD	56	413				
82.80.080	AMD	56	414				
84.14.010	AMD	146	1				
84.14.020	AMD	146	2				
84.14.110	AMD	146	3				
84.34.020	AMD	315	1				
84.34.041	AMD	315	2				
84.40.042	AMD	168	8				
84.52	ADD	180	2				
84.52.010	AMD	88	7				
84.52.010	AMD	248	15				
84.52.052	AMD	180	1				
84.52.052	AMD	248	16				
84.55.005	AMD	1	2				
84.55.0101	AMD	1	3				
84.56.230	AMD	81	1				
84.64.060	AMD	168	9				
84.64.070	AMD	168	10				
84.69.020	AMD	168	11				
84.69.100	AMD	168	12				
87.03	ADD	53	1				
88.02.030	AMD	286	12				
88.02.040	AMD	286	14				
88.02.050	AMD	286	13				
89.08	ADD	280	2,3				

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<u>LAWS 1989</u>			<u>LAWS 2002</u>		<u>LAWS 2001 2ND SP.S.</u>			<u>LAWS 2002</u>	
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
350	1	AMD	289	1	7	118	AMD	371	117
<u>LAWS 1990</u>			<u>LAWS 2002</u>		7	119	AMD	371	118
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	7	120	AMD	371	119
66	1	AMD	175	51	7	123	AMD	371	120
<u>LAWS 1999</u>			<u>LAWS 2002</u>		7	124	AMD	371	121
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	7	125	AMD	371	122
320	6	AMD	130	6	7	126	AMD	371	123
<u>LAWS 2000</u>			<u>LAWS 2002</u>		7	127	AMD	371	125
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	7	128	AMD	371	126
1	724	AMD	359	503	7	129	AMD	371	127
160	4	AMD	130	5	7	130	AMD	371	128
<u>LAWS 2001 2ND SP.S.</u>			<u>LAWS 2002</u>		7	131	AMD	371	129
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	7	132	AMD	371	130
7		ADD	371	124	7	133	AMD	371	132
7		ADD	371	131	7	134	AMD	371	133
7		ADD	371	219	7	135	AMD	371	134
7		ADD	371	517	7	136	AMD	371	135
7		ADD	371	706	7	137	AMD	371	136
7		ADD	371	707	7	138	AMD	371	137
7		ADD	371	708	7	139	AMD	371	138
7		ADD	371	709	7	142	AMD	371	139
7		ADD	371	713	7	143	AMD	371	140
7		ADD	371	717	7	144	AMD	371	141
7		ADD	371	720	7	147	AMD	371	142
7		ADD	371	721	7	148	AMD	371	143
7		ADD	371	724	7	149	AMD	371	144
7		ADD	371	726	7	151	AMD	371	145
7	101	AMD	371	101	7	152	AMD	371	146
7	102	AMD	371	102	7	153	AMD	371	147
7	103	AMD	371	103	7	201	AMD	371	201
7	104	AMD	371	104	7	202	AMD	371	202
7	105	AMD	371	105	7	203	AMD	371	203
7	106	AMD	371	106	7	204	AMD	371	204
7	107	AMD	371	107	7	205	AMD	371	205
7	109	AMD	371	108	7	206	AMD	371	206
7	110	AMD	371	109	7	207	AMD	371	207
7	111	AMD	371	110	7	208	AMD	371	208
7	112	AMD	371	111	7	209	AMD	371	209
7	113	AMD	371	112	7	210	AMD	371	210
7	114	AMD	371	113	7	211	AMD	371	211
7	115	AMD	371	114	7	213	AMD	371	212
7	116	AMD	371	115					
7	117	AMD	371	116					

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<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
7	214	AMD	371	213	7	602	AMD	371	602
7	215	AMD	371	214	7	603	AMD	371	603
7	216	AMD	371	215	7	604	AMD	371	604
7	217	AMD	371	216	7	605	AMD	371	605
7	218	AMD	371	217	7	606	AMD	371	606
7	219	AMD	371	218	7	607	AMD	371	607
7	220	AMD	371	220	7	608	AMD	371	608
7	221	AMD	371	221	7	609	AMD	371	609
7	222	AMD	371	222	7	610	AMD	371	610
7	223	AMD	371	223	7	611	AMD	371	611
7	224	AMD	371	224	7	612	AMD	371	612
7	301	AMD	371	301	7	613	AMD	371	613
7	302	AMD	371	302	7	614	AMD	371	614
7	303	AMD	371	303	7	615	AMD	371	615
7	304	AMD	371	304	7	616	AMD	371	616
7	305	AMD	371	305	7	617	AMD	371	617
7	306	AMD	371	306	7	618	AMD	371	618
7	307	AMD	371	307	7	619	AMD	371	619
7	308	AMD	371	308	7	701	AMD	371	701
7	309	AMD	371	309	7	702	AMD	371	702
7	401	AMD	371	401	7	703	AMD	371	703
7	402	AMD	371	402	7	704	AMD	371	704
7	501	AMD	371	501	7	705	AMD	371	727
7	502	AMD	371	502	7	706	AMD	371	705
7	503	AMD	371	503	7	713	AMD	371	710
7	504	AMD	371	504	7	716	AMD	371	711
7	505	AMD	371	505	7	717	AMD	371	712
7	507	AMD	371	506	7	719	AMD	371	714
7	508	AMD	371	507	7	720	AMD	371	715
7	509	AMD	371	508	7	722	AMD	371	716
7	510	AMD	371	509	7	723	AMD	371	718
7	511	AMD	371	510	7	724	AMD	371	719
7	512	AMD	371	511	7	727	AMD	371	722
7	513	AMD	371	512	7	728	AMD	371	723
7	514	AMD	371	513	7	801	AMD	371	801
7	515	AMD	371	514	7	805	AMD	371	802
7	516	AMD	371	515	8		ADD	238	105
7	517	AMD	371	516	8		ADD	238	107
7	519	AMD	371	518	8		ADD	238	108
7	521	AMD	371	519	8		ADD	238	111
7	601	AMD	371	601	8		ADD	238	116

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<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>
8		ADD	238	117	8	661	AMD	238	143
8		ADD	238	118	8	701	AMD	238	144
8		ADD	238	127	8	755	AMD	238	145
8		ADD	238	129	8	784	AMD	238	146
8		ADD	238	133	8	799	AMD	238	151
8		ADD	238	135	8	803	AMD	238	152
8		ADD	238	140	8	804	AMD	238	153
8		ADD	238	150	8	813	AMD	238	154
8	111	AMD	238	102	8	824	AMD	238	147
8	117	AMD	238	103	8	828	AMD	238	148
8	157	AMD	238	109	8	829	AMD	238	149
8	173	AMD	238	106	8	907	AMD	238	155
8	182	REP	238	156	14		ADD	359	201
8	183	AMD	238	110	14		ADD	359	203
8	184	REP	238	156	14		ADD	359	209
8	186	REP	238	156	14	102	AMD	359	101
8	187	REP	238	156	14	203	AMD	359	202
8	257	AMD	238	113	14	204	AMD	359	204
8	265	AMD	238	210	14	205	AMD	359	205
8	270	AMD	238	114	14	207	AMD	359	206
8	278	AMD	238	115	14	209	AMD	359	207
8	303	AMD	238	119	14	210	AMD	359	208
8	311	AMD	238	120	14	211	AMD	359	210
8	313	AMD	238	121	14	212	AMD	359	211
8	344	AMD	238	122	14	213	AMD	359	212
8	346	AMD	238	123	14	214	AMD	359	213
8	348	AMD	238	124	14	215	AMD	359	214
8	350	AMD	238	125	14	216	AMD	359	215
8	354	AMD	238	126	14	217	AMD	359	216
8	387	AMD	238	128	14	218	AMD	359	217
8	388	AMD	238	130	14	220	AMD	359	218
8	390	AMD	238	131	14	221	AMD	359	219
8	392	AMD	238	132	14	222	AMD	359	220
8	416	AMD	238	134	14	224	AMD	359	221
8	421	REP	238	156	14	225	AMD	359	222
8	427	AMD	238	136	14	226	AMD	359	223
8	505	AMD	238	137	14	227	AMD	359	224
8	506	AMD	238	138	14	228	AMD	359	225
8	602	AMD	238	139	14	229	AMD	359	226
8	624	AMD	238	141	14	230	AMD	359	227
8	638	AMD	238	142	14	231	AMD	359	228

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14	232	AMD	359	229
14	233	AMD	359	230
14	301	AMD	359	301
14	401	AMD	359	401
14	402	AMD	359	402
14	403	AMD	359	403
14	406	AMD	359	404
14	407	AMD	359	405

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HISTORY OF STATE MEASURES FILED WITH THE SECRETARY OF STATE

INITIATIVES TO THE PEOPLE

INITIATIVE MEASURE No. 1 (**State-wide Prohibition**)—Filed January 2, 1914. Refiled as Initiative Measure No. 3.

INITIATIVE MEASURE No. 2 (**Eight Hour Law**)—Filed January 3, 1914. Refiled as Initiative Measure No. 5.

***INITIATIVE MEASURE No. 3 (State-Wide Prohibition)**—Filed January 8, 1914. Submitted to the voters at the state general election held on November 3, 1914. Measure approved into law by the following vote: **For**—189,840 **Against**—171,208. Act is now identified as Chapter 2, Laws of 1915.

INITIATIVE MEASURE No. 4 (**Drugless Healers**)—Filed January 13, 1914. No petition filed.

INITIATIVE MEASURE No. 5 (**Eight Hour Law**)—Filed January 15, 1914. No petition filed. See Initiative Measure No. 13, covering same subject.

INITIATIVE MEASURE No. 6 (**Blue Sky Law**)—Filed January 30, 1914. Submitted to voters at the state general election held on November 3, 1914. Failed to pass by the following vote: **For**—142,017 **Against**—147,298.

INITIATIVE MEASURE No. 7 (**Abolishing Bureau of Inspection**)—Filed January 30, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: **For**—117,882 **Against**—167,080.

***INITIATIVE MEASURE No. 8 (Abolishing Employment Offices)**—Filed January 30, 1914. Submitted to the voters at the state general election held on November 3, 1914. Measure approved into law by the following vote: **For**—162,054 **Against**—144,544. Act is now identified as Chapter 1, Laws of 1915.

INITIATIVE MEASURE No. 9 (**First Aid to Injured**)—Filed January 29, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: **For**—143,738 **Against**—154,166.

INITIATIVE MEASURE No. 10 (**Convict Labor Road Measure**)—Filed January 29, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: **For**—111,805 **Against**—183,726.

INITIATIVE MEASURE No. 11 (**Fish Code**)—Filed January 29, 1914. Petition failed. Not enough valid signatures obtained to place the measure on the November 3, 1914 state general election ballot.

INITIATIVE MEASURE No. 12 (**Abolishing Tax Commission**)—Filed January 29, 1914. Petition failed. Not enough valid signatures obtained to place the measure on the November 3, 1914 state general election ballot.

INITIATIVE MEASURE No. 13 (**Eight Hour Law**)—Filed February 10, 1914. Submitted to the voters at the state general election held on November 3, 1914. Failed to pass by the following vote: **For**—118,881 **Against**—212,935.

INITIATIVE MEASURE No. 14 (**Legislative Reapportionment**)—Filed May 13, 1914. No petition filed.

INITIATIVE MEASURE No. 15 (**Fundamental Reform Act**)—Filed May 15, 1914. No petition filed.

INITIATIVES TO THE PEOPLE

- INITIATIVE MEASURE No. 16 (**Legislative Reapportionment**)—Filed May 20, 1914. No petition filed.
- INITIATIVE MEASURE No. 17 (**State Road Measure**)—Filed June 13, 1914. No petition filed.
- INITIATIVE MEASURE No. 18 (**Brewers' Hotel Bill**)—Filed December 14, 1914. The 1915 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 7, 1916 state general election. Measure was defeated by the following vote: **For**—48,354 **Against**—263,390.
(This initiative was erroneously numbered since it was actually an initiative to the Legislature. Now renumbered as Initiative to the Legislature No. 1A.)
- INITIATIVE MEASURE No. 19 (**Nonpartisan Election and Presidential Primary**)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 20 (**First Aid**)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 21 (**Home Rule**)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 22 (**Fisheries Code**)—Filed February 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 23 (**Politicians' Code**)—Filed March 29, 1916. No petition filed.
- INITIATIVE MEASURE No. 24 (**Brewers' Bill**)—Filed April 20, 1916. Submitted to the voters at the state general election held on November 7, 1916. Failed to pass by the following vote: **For**—98,843 **Against**—245,399.
- INITIATIVE MEASURE No. 25 (**Repealing State-Wide Prohibition**)—Filed May 11, 1916. No petition filed.
- INITIATIVE MEASURE No. 26 (**Making the State a Prohibition District**)—Filed October 13, 1916. No petition filed.
- INITIATIVE MEASURE No. 27 (**Repealing Chapter 57, Laws of 1915, Relating to Regulation of Common Carriers**)—Filed October 13, 1916. No petition filed.
- INITIATIVE MEASURE No. 28 (**Nonpartisan Elections**)—Filed October 26, 1916. No petition filed.
- INITIATIVE MEASURE No. 29 (**Capitol Removal Bill**)—Filed November 27, 1916. No petition filed.
- INITIATIVE MEASURE No. 30 (**Eight Hour Law**)—Filed January 9, 1918. No petition filed.
- INITIATIVE MEASURE No. 31 (**Municipal Marketing Measure**)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 32 (**Picketing Measure**)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 33 (**Nonpartisan Elections and Presidential Primary**)—Filed February 5, 1918. No petition filed.
- INITIATIVE MEASURE No. 34 (**Relating to Salmon Fishing**)—Filed February 8, 1918. No petition filed.
- INITIATIVE MEASURE No. 35 (**Repealing Chapter 174, Laws of 1919, Relating to Prevention of Criminal Syndicalism**)—Filed October 7, 1920. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 36 (**Municipal Marketing Measure**)—Filed November 16, 1920. No petition filed.
- INITIATIVE MEASURE No. 37 (**Relating to Ownership of Land by Aliens**)—Filed November 19, 1920. No petition filed.
- INITIATIVE MEASURE No. 38 (**Repealing Chapter 209, Laws of 1907, Relating to the Nomination of Candidates for Public Office**)—Filed January 11, 1922. No petition filed.

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INITIATIVE MEASURE No. 39 (**Repealing Chapter 138, Laws of 1913, Relating to the Initiative Procedure**)—Filed January 11, 1922. No petition filed.

***INITIATIVE MEASURE No. 40 (Repealing Chapter 174, Laws of 1921, Relating to the Poll Tax)**—Filed January 18, 1922. Submitted to the voters at the state general election held on November 7, 1922. Measure approved into law by the following vote: **For**—193,356 **Against**—63,494. Act is now identified as Chapter 1, Laws of 1923.

INITIATIVE MEASURE No. 41 (**Nonpartisan Elections**)—Filed January 18, 1922. No petition filed.

INITIATIVE MEASURE No. 42 (**Workmen's Compensation Measure**)—Filed January 24, 1922. Same as Initiative Measure No. 47: no petition filed.

INITIATIVE MEASURE No. 43 (**Relating to Injunctions in Lahor Disputes**)—Filed January 24, 1922. No petition filed.

INITIATIVE MEASURE No. 44 (**Relating to Mnnicipal Ownership**)—Filed January 28, 1922. No petition filed.

INITIATIVE MEASURE No. 45 (**Legislative Reapportionment**)—Filed February 14, 1922. No petition filed.

INITIATIVE MEASURE No. 46 ("**30-10" School Plan**)—Filed February 21, 1922. Submitted to the voters at the state general election held on November 7, 1922. Failed to pass by the following vote: **For**—99,150 **Against**—150,114.

INITIATIVE MEASURE No. 47 (**Workmen's Compensation Measure**)—Filed March 27, 1922. No petition filed.

INITIATIVE MEASURE No. 48 (**Compulsory School Attendance**)—Filed January 7, 1924. No petition filed.

INITIATIVE MEASURE No. 49 (**Compulsory School Attendance**)—Filed January 15, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—158,922 **Against**—221,500.

INITIATIVE MEASURE No. 50 (**Limitation of Taxation**)—Filed February 21, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—128,677 **Against**—211,948.

INITIATIVE MEASURE No. 51 (**Pertaining to Salmon Fishing**)—Filed April 2, 1924. No petition filed.

INITIATIVE MEASURE No. 52 (**Electric Power Measure**)—Filed April 8, 1924. Submitted to the voters at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—139,492 **Against**—217,393.

INITIATIVE MEASURE No. 53 (**Relating to Sanipractic**)—Filed February 4, 1926. No petition filed.

INITIATIVE MEASURE No. 54 (**State Commissiou to License and Regulate Horse-Racing, Pool-Selling, etc.—Parimutuel Measure**)—Filed February 5, 1926. No petition filed.

INITIATIVE MEASURE No. 55 (**Prohibiting Use of Purse Seines, Fish Traps, Fish Wheels, etc.**)—Filed February 16, 1928. No petition filed.

INITIATIVE MEASURE No. 56 (**Redistricting State For Legislative Purposes**)—Filed April 24, 1930. Refiled as Initiative Measure No. 57.

***INITIATIVE MEASURE No. 57 (Redistricting State for Legislative Purposes)**—Filed April 25, 1930. Submitted to the voters at the state general election held on November 4, 1930. Measure approved into law by the following vote: **For**—116,436 **Against**—115,641. Act is now identified as Chapter 2, Laws of 1931.

***INITIATIVE MEASURE No. 58 (Permanent Registration)**—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into

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law by the following vote: **For**—372,061 **Against**—75,381. Act is now identified as Chapter 1, Laws of 1933.

INITIATIVE MEASURE No. 59 (**Tax Free Homes**)—Filed January 9, 1932. No petition filed.

INITIATIVE MEASURE No. 60 (**Licensing of Mercantile Establishments**)—Filed January 9, 1932. No petition filed.

***INITIATIVE MEASURE No. 61 (Relating to Intoxicating Liquors)**—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For**—341,450 **Against**—208,211. Act is now identified as Chapter 2, Laws of 1933.

***INITIATIVE MEASURE No. 62 (Creating Department of Game)**—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For**—270,421 **Against**—231,863. Act is now identified as Chapter 3, Laws of 1933.

INITIATIVE MEASURE No. 63 (**Exemption of Homes from Taxation**)—Filed January 9, 1932. No petition filed.

***INITIATIVE MEASURE No. 64 (Limits Tax Levy on Real and Personal Property to 40 Mills)**—Filed January 9, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For**—303,384 **Against**—190,619. Act is now identified as Chapter 4, Laws of 1933.

INITIATIVE MEASURE No. 65 (**Cascade Mountain Tunnel**)—Filed February 19, 1932. No petition filed.

INITIATIVE MEASURE No. 66 (**Scientific Birth Control**)—Filed February 26, 1932. No petition filed.

INITIATIVE MEASURE No. 67 (**Aholishes Excise Tax on Butter Substitutes**)—Filed March 7, 1932. No petition filed.

INITIATIVE MEASURE No. 68 (**Unemployment Insurance**)—Filed March 21, 1932. No petition filed.

***INITIATIVE MEASURE No. 69 (Income Tax Measure)**—Filed March 22, 1932. Submitted to the voters at the state general election held on November 8, 1932. Measure approved into law by the following vote: **For**—322,919 **Against**—136,983. Act is now identified as Chapter 5, Laws of 1933.

INITIATIVE MEASURE No. 70 (**Compulsory Military Training Prohibited**)—Filed April 4, 1932. No petition filed.

INITIATIVE MEASURE No. 71 (**Liquor Control**)—Filed January 8, 1934. No petition filed.

INITIATIVE MEASURE No. 72 (**Distribution of Highway Funds**)—Filed January 8, 1934. No petition filed.

INITIATIVE MEASURE No. 73 (**Catching of Fish**)—Filed January 8, 1934. No petition filed.

INITIATIVE MEASURE No. 74 (**Tax Free Homes**)—Filed January 8, 1934. No petition filed.

INITIATIVE MEASURE No. 75 (**Unemployment Insurance**)—Filed January 19, 1934. No petition filed.

INITIATIVE MEASURE No. 76 (**Tax Free Homes**)—Filed January 22, 1934. No petition filed.

***INITIATIVE MEASURE No. 77 (Fish Traps and Fishing Regulations)**—Filed February 1, 1934. Submitted to the voters at the state general election held on November 6, 1934. Measure approved into law by the following vote: **For**—275,507 **Against**—153,811. Act is now identified as Chapter 1, Laws of 1935.

INITIATIVE MEASURE No. 78 (**Distribution of Highway Funds**)—Filed February 9, 1934. No petition filed.

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- INITIATIVE MEASURE No. 79 (**Liquor Control**)—Filed February 20, 1934. No petition filed.
- INITIATIVE MEASURE No. 80 (**Liquor Control**)—Filed February 24, 1934. No petition filed.
- INITIATIVE MEASURE No. 81 (**Liquor Control**)—Filed February 28, 1934. No petition filed.
- INITIATIVE MEASURE No. 82 (**Fishing Regulations**)—Filed March 10, 1934. No petition filed.
- INITIATIVE MEASURE No. 83 (**State Sale of Gasoline**)—Filed March 16, 1934. No petition filed.
- INITIATIVE MEASURE No. 84 (**Blanket Primary**)—Filed March 17, 1934. No petition filed.
- INITIATIVE MEASURE No. 85 (**State Fire Insurance**)—Filed March 17, 1934. No petition filed.
- INITIATIVE MEASURE No. 86 (**State Fire Insurance**)—Filed March 21, 1934. No petition filed.
- INITIATIVE MEASURE No. 87 (**Workmen's Compensation**)—Filed March 22, 1934. No petition filed.
- INITIATIVE MEASURE No. 88 (**Liquor Control**)—Filed March 24, 1934. No petition filed.
- INITIATIVE MEASURE No. 89 (**One Man Grand Jury**)—Filed March 30, 1934. No petition filed.
- INITIATIVE MEASURE No. 90 (**Criminal Appeals**)—Filed March 30, 1934. No petition filed.
- INITIATIVE MEASURE No. 91 (**Regulating Motor Carriers**)—Filed March 31, 1934. No petition filed.
- INITIATIVE MEASURE No. 92 (**Regulating Motor Carriers**)—Filed April 9, 1934. No petition filed.
- INITIATIVE MEASURE No. 93 (**Distribution of Highway Funds**)—Filed May 10, 1934. Insufficient number of signatures on petition; failed.
- *INITIATIVE MEASURE No. 94 (40-Mill Tax Limit)**—Filed May 18, 1934. Submitted to the voters at the state general election held on November 6, 1934. Measure approved into law by the following vote: **For**—219,635 **Against**—192,168. Act is now identified as Chapter 2, Laws of 1935.
- INITIATIVE MEASURE No. 95 (**Liquor Control**)—Filed May 26, 1934. No petition filed.
- INITIATIVE MEASURE No. 96 (**Repeal of Business Occupation Tax**)—Filed June 4, 1934. No petition filed.
- INITIATIVE MEASURE No. 97 (**Dog Racing**)—Filed June 7, 1934. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 98 (**Business and Occupation Tax**)—Filed January 4, 1936. No petition filed.
- INITIATIVE MEASURE No. 99 (**Distribution of Highway Funds**)—Filed January 4, 1936. No petition filed.
- INITIATIVE MEASURE No. 100 (**40-Mill Tax Limit**)—Filed January 4, 1936. No petition filed.
- INITIATIVE MEASURE No. 101 (**Civil Service**)—Filed January 14, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: **For**—208,904 **Against**—300,274.
- INITIATIVE MEASURE No. 102 (**Creating "State Government Bank" Department**)—Filed January 21, 1936. No petition filed.
- INITIATIVE MEASURE No. 103 (**Old Age Pension**)—Filed January 17, 1936. No petition filed.
- INITIATIVE MEASURE No. 104 (**Tax on Gasoline**)—Filed February 27, 1936. No petition filed.
- INITIATIVE MEASURE No. 105 (**Relating to Gill Nets**)—Filed March 3, 1936. No petition filed.
- INITIATIVE MEASURE No. 106 (**Voter's Identification Certificate**)—Filed March 3, 1936. No petition filed.

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- INITIATIVE MEASURE No. 107 (**Tax on Gasoline**)—Filed March 7, 1936. No petition filed.
- INITIATIVE MEASURE No. 108 (**40-Mill Tax Limit**)—Filed March 12, 1936. No petition filed.
- INITIATIVE MEASURE No. 109 (**Admission of Sick to Hospitals**)—Filed March 14, 1936. No petition filed.
- INITIATIVE MEASURE No. 110 (**Annuity for Crippled and Blind**)—Filed March 27, 1936. No petition filed.
- INITIATIVE MEASURE No. 111 (**Admission of Sick to Hospitals**)—Filed April 8, 1936. No petition filed.
- INITIATIVE MEASURE No. 112 (**Abolishing Compulsory Military Training**)—Filed April 9, 1936. No petition filed.
- INITIATIVE MEASURE No. 113 (**Tax on Gasoline**)—Filed April 15, 1936. No petition filed.
- *INITIATIVE MEASURE No. 114 (40-Mill Tax Limit)**—Filed April 21, 1936. Submitted to the voters at the state general election held on November 3, 1936. Measure approved into law by the following vote: **For**—417,641 **Against**—120,478. Act is now identified as Chapter 1, Laws of 1937.
- INITIATIVE MEASURE No. 115 (**Old Age Pension**)—Filed April 21, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: **For**—153,551 **Against**—354,162.
- INITIATIVE MEASURE No. 116 (**Tax on Gasoline**)—Filed April 24, 1936. No petition filed.
- INITIATIVE MEASURE No. 117 (**Production for Use**)—Filed May 1, 1936. No petition filed.
- INITIATIVE MEASURE No. 118 (**Liens for Labor**)—Filed May 5, 1936. No petition filed.
- INITIATIVE MEASURE No. 119 (**Production for Use**)—Filed May 9, 1936. Submitted to the voters at the state general election held on November 3, 1936. Failed to pass by the following vote: **For**—97,329 **Against**—370,140.
- INITIATIVE MEASURE No. 120 (**Tax on Gasoline**)—Filed May 11, 1936. No petition filed.
- INITIATIVE MEASURE No. 121 (**Beer on Sunday**)—Filed May 14, 1936. No petition filed.
- INITIATIVE MEASURE No. 122 (**Pertaining to Bribery and Grafting**)—Filed May 21, 1936. No petition filed.
- INITIATIVE MEASURE No. 123 (**Business and Occupation Tax**)—Filed January 27, 1938. No petition filed.
- INITIATIVE MEASURE No. 124 (**Distribution of Highway Funds**)—Filed February 9, 1938. No petition filed.
- INITIATIVE MEASURE No. 125 (**Tax on Intoxicating Liquors**)—Filed February 15, 1938. No petition filed.
- *INITIATIVE MEASURE No. 126 (Nonpartisan School Election)**—Filed February 24, 1938. Submitted to the voters at the state general election held on November 8, 1938. Measure approved into law by the following vote: **For**—293,202 **Against**—153,142. Act is now identified as Chapter 1, Laws of 1939.
- INITIATIVE MEASURE No. 127 (**Distribution of Highway Funds**)—Filed March 14, 1938. No petition filed.
- INITIATIVE MEASURE No. 128 (**Civil Service**)—Filed March 14, 1938. No petition filed.
- *INITIATIVE MEASURE No. 129 (40-Mill Tax Limit)**—Filed March 18, 1938. Submitted to the voters at the state general election held on November 8, 1938. Measure approved into law by the following vote: **For**—340,296 **Against**—149,534. Act is now identified as Chapter 2, Laws of 1939.

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- INITIATIVE MEASURE No. 130 (**Regulation of Labor Disputes**)—Filed April 6, 1938. Submitted to the voters at the state general election held on November 8, 1938. Failed by the following vote: **For**—268,848 **Against**—295,431.
- INITIATIVE MEASURE No. 131 (**Civil Service**)—Filed April 7, 1938. No petition filed.
- INITIATIVE MEASURE No. 132 (**Old Age Assistance**)—Filed April 12, 1938. No petition filed.
- INITIATIVE MEASURE No. 133 (**Relating to Licensing Gambling**)—Filed April 15, 1938. No petition filed.
- INITIATIVE MEASURE No. 134 (**Old Age Assistance**)—Filed April 19, 1938. No petition filed.
- INITIATIVE MEASURE No. 135 (**40-Mill Tax Limit**)—Filed May 14, 1938. Insufficient number of signatures on petition; failed.
- INITIATIVE MEASURE No. 136 (**Relating to Retail Beer and Wine Licenses**)—Filed June 3, 1938. No petition filed.
- INITIATIVE MEASURE No. 137 (**Relating to Gambling**)—Filed June 9, 1938. No petition filed.
- INITIATIVE MEASURE No. 138 (**Relating to Gambling**)—Filed June 13, 1938. No petition filed.
- INITIATIVE MEASURE No. 139 (**P. U. D. Bonds**)—Filed January 5, 1940. Submitted to the voters at the state general election held on November 5, 1940. Failed by the following vote: **For**—253,318 **Against**—362,508.
- INITIATIVE MEASURE No. 140 (**Liquor Control**)—Filed January 9, 1940. No petition filed.
- *INITIATIVE MEASURE No. 141 (**Old Age Pension**)—Filed January 11, 1940. Submitted to the voters at the state general election held on November 5, 1940. Measure approved into law by the following vote: **For**—358,009 **Against**—258,819. Act is now identified as Chapter 1, Laws of 1941.
- INITIATIVE MEASURE No. 142 (**Chain Store Tax**)—Filed January 16, 1940. No petition filed.
- INITIATIVE MEASURE No. 143 (**Relating to State Sale of Gas and Oil**)—Filed February 2, 1940. No petition filed.
- INITIATIVE MEASURE No. 144 (**Unicameral Legislature**)—Filed February 23, 1940. Withdrawn. Refiled as Initiative Measure No. 147.
- INITIATIVE MEASURE No. 145 (**Government Reorganization**)—Filed March 18, 1940. No petition filed.
- INITIATIVE MEASURE No. 146 (**Relating to Sabbath Breaking**)—Filed March 22, 1940. No petition filed.
- INITIATIVE MEASURE No. 147 (**Unicameral Legislature**)—Filed April 9, 1940. No petition filed.
- INITIATIVE MEASURE No. 148 (**Liquor Control**)—Filed May 18, 1940. No petition filed.
- INITIATIVE MEASURE No. 149 (**Anti-Subversive Activities**)—Filed May 23, 1940. No petition filed.
- INITIATIVE MEASURE No. 150 (**Intoxicating Liquor Sold by the Drink**)—Filed January 3, 1942. No petition filed.
- INITIATIVE MEASURE No. 151 (**Old Age Assistance**)—Filed January 3, 1942. Submitted to the voters at the state general election held on November 3, 1942. Failed to pass by the following vote: **For**—160,084 **Against**—225,027.
- INITIATIVE MEASURE No. 152 (**Creating State Elective Offices of Director of Labor and Industries, Director of Social Security and Director of Agriculture**)—Filed January 27, 1942. No petition filed.
- INITIATIVE MEASURE No. 153 (**Reconstitution of Board of State Land Commissioners**)—Filed February 24, 1942. No petition filed.

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- INITIATIVE MEASURE No. 154 (**After Discharge Benefits to Persons in the Armed Forces**)—Filed April 28, 1942. No petition filed.
- INITIATIVE MEASURE No. 155 (**Washington Employment Peace Act**)—Filed January 10, 1944. No petition filed.
- INITIATIVE MEASURE No. 156 (**Liberalization of Old Age Assistance Laws**)—Filed February 19, 1944. Refiled as Initiative Measure No. 157.
- INITIATIVE MEASURE No. 157 (**Liberalization of Old Age Assistance Laws**)—Filed March 3, 1944. Submitted to the voters at the state general election November 7, 1944. Failed to pass by the following vote: **For**—240,565 **Against**—403,756.
- INITIATIVE MEASURE No. 158 (**Liberalization of Old Age Assistance Laws by the Townsend Clubs of Washington**)—Filed March 28, 1944. Submitted to the voters at the state general election November 7, 1944. Failed to pass by the following vote: **For**—184,405 **Against**—437,502.
- INITIATIVE MEASURE No. 159 (**Increase of Injured Workmen's Compensation**)—Filed January 5, 1946. Insufficient signatures presented July 10, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 160 (**Increase of Injured Workmen's Compensation**)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 161 (**Changing Form of General Election Ballot to Conform with Primary Election Ballot**)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 162 (**Prohibiting the Governor from Employing Members of the Legislature During the Term for Which He Shall Have Been Elected**)—Filed January 5, 1946. No petition filed.
- INITIATIVE MEASURE No. 163 (**Prohibiting the Sale of Beer or Wine by any Person other than the State of Washington**)—Filed January 9, 1946. Insufficient signatures presented July 6, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 164 (**Prohibiting the Sale of Fortified Wines**)—Filed February 25, 1946. No petition filed.
- INITIATIVE MEASURE No. 165 (**Providing for the Sale of Liquor by the Drink**)—Filed March 1, 1946. Insufficient signatures presented July 8, 1946, and measure not certified to general election ballot.
- INITIATIVE MEASURE No. 166 (**Relating to Public Utility Districts; requiring approval of voters as prerequisite to acquisition of any operating electrical utility properties, etc.**)—Filed April 24, 1946. Signature petitions filed June 29, 1946, submitted to the voters at the state general election held on November 5, 1946. Failed by the following vote: **For**—220,239 **Against**—367,836.
- INITIATIVE MEASURE No. 167 (**Providing Liquor by the Drink at Licensed Establishments**)—Filed January 2, 1948. Insufficient valid signatures presented July 6, 1948, and measure not certified to state general election ballot.
- INITIATIVE MEASURE No. 168 (**Providing Liquor by the Drink for Consumption on Premises Where Sold**)—Filed January 2, 1948. No signature petitions presented for checking.
- *INITIATIVE MEASURE No. 169 (**Providing Bonus to Veterans of World War II**)—Filed January 2, 1948. Signature petitions filed July 9, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: **For**—438,518 **Against**—337,410. However, State Supreme Court ruled measure unconstitutional February 4, 1949. As consequence similar measure passed into law by 1949 Legislature (Chapter 180, Laws of 1949).

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INITIATIVE MEASURE No. 170 (**Relating to Liberalization of Social Security Laws**)—Filed January 13, 1948. Because sponsor desired changes in text of proposed law, measure refiled as Initiative Measure No. 172.

***INITIATIVE MEASURE No. 171 (Providing Liquor by the Drink with Certain Restrictions)**—Filed January 19, 1948. Signature petitions filed July 7, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: **For—416,227 Against—373,418**. Act is now identified as Chapter 5, Laws of 1949.

***INITIATIVE MEASURE No. 172 (Relating to Liberalization of Social Security Laws)**—Filed February 26, 1948. Signature petitions filed July 9, 1948, and found sufficient. Submitted to the voters at the state general election held on November 2, 1948. Measure approved into law by the following vote: **For—420,751 Against—352,642**. Act is now identified as Chapter 6, Laws of 1949.

INITIATIVE MEASURE No. 173 (**Providing for the Observance of Daylight Saving Time in the State of Washington**)—Filed May 20, 1948. No signature petitions presented for checking.

INITIATIVE MEASURE No. 174 (**Making application to Congress to call a Convention for the sole purpose of proposing an amendment to the Constitution of the United States to expedite and insure participation of the United States in a world federal government**)—Filed January 16, 1950. No signature petitions presented for checking.

INITIATIVE MEASURE No. 175 (**Establishing a Department of Youth Protection to operate the Washington State Training School and the State School for Girls under nonpartisan control**)—Filed March 31, 1950. No signature petitions presented for canvassing. Essential provisions of this measure enacted by the 1951 Legislature (Chapter 234, Laws of 1951).

INITIATIVE MEASURE No. 176 (**Increasing to sixty-five dollars monthly the minimum grant for certain categories of public assistance, otherwise extending the social security program, and making an appropriation**)—Filed April 20, 1950. Submitted to the voters at the state general election held on November 7, 1950. Failed to pass by the following vote: **For—159,400 Against—534,689**.

INITIATIVE MEASURE No. 177—Filed May 1, 1950. Refiled May 5, 1950, as Initiative Measure No. 178.

***INITIATIVE MEASURE No. 178 (Modifying the Citizens' Security Act of 1948 (Initiative Measure No. 172) and transferring the public assistance medical program to the State Department of Health)**—Filed May 5, 1950. Submitted to the voters at the state general election held on November 7, 1950. Measure approved into law by the following vote: **For—394,261 Against—296,290**. Act is now identified as Chapter I, Laws of 1951.

INITIATIVE MEASURE No. 179 (**Liberalizing unemployment compensation benefits and repealing that portion of the Unemployment Compensation Act providing for employer experience rating**)—Filed May 5, 1950. No signature petitions presented for checking.

***INITIATIVE MEASURE No. 180 (Authorizing the Manufacture, Sale and Use of Colored Oleomargarine)**—Filed February 4, 1952. Submitted to the voters at the state general election held on November 4, 1952. Measure approved into law by the following vote: **For—836,580 Against—163,752**. Act is now identified as Chapter I, Laws of 1953.

***INITIATIVE MEASURE No. 181 (Prescribing the Observance of Standard Time)**—Filed February 27, 1952. Submitted to the voters at the state general election held on November 4, 1952. Measure approved into law by the following vote: **For—597,558 Against—397,928**. Act is now identified as Chapter 2, Laws of 1953.

INITIATIVE MEASURE No. 182 (**Repealing Sunday Blue Laws**)—Filed March 24, 1952. No signature petitions presented for checking.

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- INITIATIVE MEASURE No. 183 (**Petitioning Congress to declare a policy of the United States to live in peaceful coexistence with other nations and to call a conference of the heads of leading nations to negotiate a settlement of existing differences**)—Filed March 26, 1952. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 184 (**Liheralizing Old Age Pension Laws**)—Filed April 3, 1952. Submitted to the voters at the state general election held on November 4, 1952. Failed by the following vote: **For**—265,193 **Against**—646,534.
- INITIATIVE MEASURE No. 185 (**Liberalizing Old Age Pension Laws**)—Filed April 11, 1952. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 186 (**Providing a Civil Service System for Employees of County Sheriffs**)—Filed April 14, 1952. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 187 (**Permitting a Modified Coloring of Oleomargarine**)—Filed May 15, 1952. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 188 (**Raising Standards for Chiropractic Examinations**)—Filed January 4, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: **For**—320,179 **Against**—493,108.
- INITIATIVE MEASURE No. 189 (**Legislative Reapportionment**)—Filed January 4, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 190 (**Presidential Preference Primary**)—Filed January 6, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 191 (**Attorneys' Fees in Probate**)—Filed January 21, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 192 (**Regulation of Commercial Salmon Fishing**)—Filed February 16, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: **For**—237,004 **Against**—555,151.
- INITIATIVE MEASURE No. 193 (**State-Wide Daylight Saving Time**)—Filed February 23, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: **For**—370,005 **Against**—457,529.
- INITIATIVE MEASURE No. 194 (**Restricting Television Alcoholic Beverage Advertising**)—Filed March 26, 1954. Submitted to the voters at the state general election held on November 2, 1954. Failed by the following vote: **For**—207,746 **Against**—615,794.
- INITIATIVE MEASURE No. 195 (**State Toll Commission**)—Filed March 30, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 196 (**the Unemployment Compensation Act**)—Filed April 23, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 197 (**Restricting Dams: Columbia River Tributaries**)—Filed May 12, 1954. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 198 (**Affecting Employer-Employee Relations**)—Filed January 19, 1956. Submitted to the voters at the state general election held on November 6, 1956. Failed to pass by the following vote: **For**—329,653 **Against**—704,903.
- *INITIATIVE MEASURE No. 199 (Legislative Reapportionment and Redistricting)**—Filed February 16, 1956. Submitted to the voters at the November 6, 1956 state general election. Measure approved into law by the following vote: **For**—448,121 **Against**—406,287. However, 1957 Legislature extensively amended this act by passing Chapter 289, Laws of 1957 by two-thirds approval of both branches of the Legislature.
- INITIATIVE MEASURE No. 200 (**Increasing Public Assistance Benefits**)—Filed February 27, 1956. No signature petitions submitted for checking.

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- INITIATIVE MEASURE No. 201 (**Washington Fair Labor Standards Act**)—Filed March 2, 1956. No signature petitions submitted for checking.
- INITIATIVE MEASURE No. 202 (**Restricting Labor Agreements**)—Filed January 6, 1958. Signature petitions filed July 3, 1958 and found sufficient. Submitted to voters at the state general election held on November 4, 1958. Failed by the following vote: **For**—339,742 **Against**—596,949.
- INITIATIVE MEASURE No. 203 (**Wood Pulp Waste Tax**)—Filed February 28, 1959. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 204 (**Civil Service for State Employees**)—Filed January 8, 1960. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 205 (**Authorizing Tavern Spirituous Liquor Licenses**)—Filed January 8, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Failed by the following vote: **For**—357,455 **Against**—799,643.
- INITIATIVE MEASURE No. 206 (**Authorizing and Licensing "Deuturistry"**)—Filed January 11, 1960. No signature petitions presented for checking.
- *INITIATIVE MEASURE No. 207 (Civil Service for State Employees)**—Filed January 13, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the following vote: **For**—606,511 **Against**—471,730. Act is now identified as Chapter 1, Laws of 1961.
- *INITIATIVE MEASURE No. 208 (Authorizing Joint Teuancies in Property)**—Filed January 13, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the following vote: **For**—647,529 **Against**—430,698. Act is now identified as Chapter 2, Laws of 1961.
- INITIATIVE MEASURE No. 209 (**Minimum Old Age Assistance Grants**)—Filed February 8, 1960. No signature petitions presented for checking.
- *INITIATIVE MEASURE No. 210 (State-Wide Daylight Saving Time)**—Filed April 15, 1960. Signature petitions filed July 8, 1960 and found sufficient. Submitted to the voters at the November 8, 1960 state general election. Measure approved into law by the following vote: **For**—596,135 **Against**—556,623. Act is now identified as Chapter 3, Laws of 1961.
- INITIATIVE MEASURE No. 211 (**State Legislative Reapportionment and Redistricting**)—Filed January 8, 1962 by the League of Women Voters of Washington. Signature petitions filed on June 29, 1962 and as of August 22, 1962 it was determined that the necessary number of valid signatures had been submitted to certify measure to the voters for decision at the 1962 state general election. Measure was rejected by the voters by the vote: **For**—396,419 **Against**—441,085.
- INITIATIVE MEASURE No. 212 (**Repealing Certain 1961 Tax Laws**)—Filed January 8, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- INITIATIVE MEASURE No. 213 (**Authorizing and Liceusing "Denturistry"**)—Filed January 8, 1962 by the Washington Society of Denturists. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- INITIATIVE MEASURE No. 214 (**Restricting the Legislature's Tax Power**)—Filed February 19, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- *INITIATIVE MEASURE No. 215 (Marine Recreation Land Act)**—Filed January 3, 1964 by the Citizens for Outdoor Recreation—Marvin B. Durning, Chairman. Signature petitions filed July 3, 1964 and found sufficient. Submitted to the voters at the November 3, 1964 state general

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- election. Measure approved into law by the following vote: **For**—665,737 **Against**—381,743. Act is now identified as Chapter 5, Laws of 1965.
- INITIATIVE MEASURE No. 216 (**Repeal—County, Regional Planning Act**)—Filed January 3, 1964 by the Committee for Private Property Rights—Joseph W. Shott, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 217 (**Election of State Game Commissioners**)—Filed January 8, 1964 by the Washington State Wild Life Council, Inc.—Theodore E. Lohman, Vice President. Refiled as Initiative Measure No. 221.
- INITIATIVE MEASURE No. 218 (**Automotive Repair Regulatory Act**)—Filed January 10, 1964 by the Car Owners Association of Washington—John S. Kelly, President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 219 (**Repeal of Metro Enabling Act**)—Filed January 20, 1964 by the Committee on Constitutional Rights of the State of Washington—Mrs. Ann Kathryn Jensen, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 220 (**Repeal of Urban Renewal Law**)—Filed January 20, 1964 by the Committee on Constitutional Rights of the State of Washington—Mrs. Ann Kathryn Jensen, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 221 (**Election of State Game Commissioners**)—Filed February 13, 1964 by the Washington State Wild Life Council, Inc.—Theodore E. Lohman, Vice President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 222 (**Reallocation of Liquor Sales Revenue**)—Filed February 20, 1964 by the More & Better Schools for Washington—Lloyd M. Brown, President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 223 (**Extending Saturday Night Closing Hours**)—Filed February 26, 1964 by the Citizens Committee for Sensible Closing Hours—Chester W. Ramage, President. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 224 (**Prohibiting City Street Parking Fees**)—Filed March 31, 1964 by the Committee to Ban Parking Meters in the State of Washington—Edward John Kiter, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 225 (**Repealing State Statutes Against Discrimination**)—Filed April 23, 1964 by the Committee for Preservation of Freedom of Choice—William P. Brophy, Chairman. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 226 (**Cities Sharing Sales, Use Taxes**)—Filed January 10, 1966 by the Citizens' Committee for Community Betterment, Wayne C. Booth, Sr. of Seattle, Chairman. Signatures (180,896) filed July 8, 1966 and found sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and rejected by the following vote: **For**—403,700 **Against**—514,281.
- INITIATIVE MEASURE No. 227 (**Buying Back Breakable Beverage Bottles**)—Filed January 10, 1966 by W. N. Dahmen on behalf of his son Randall Douglas Dahmen of Spokane. No signatures presented for checking.
- INITIATIVE MEASURE No. 228 (**Tax Exemption: Food and Medicine**)—Filed February 1, 1966 by Karl J. Beaty of Tacoma. No signatures presented for checking.
- *INITIATIVE MEASURE No. 229 (**Repealing Sunday Activities Blue Law**)—Filed February 17, 1966 by Lembhard G. Howell, David Sternhoff and Mark Patterson. Signatures (187,463) filed July 6, 1966 and found sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and approved into law by the following vote: **For**—604,096 **Against**—333,972. Act is now identified as Chapter 1, Laws of 1967.
- INITIATIVE MEASURE No. 230 (**Rendering Emergency Aid—Liability Limitation**)—Filed February 17, 1966 and cosponsored jointly by the Washington State Association of Fire Chiefs,

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- Washington State Firemen's Association, and Washington Association of Sheriffs and Police Chiefs. No signatures presented for checking.
- INITIATIVE MEASURE No. 231 (**Repealing Freight Train Crew Law**)—Filed March 11, 1966 by the Committee for Transportation Economy—Fred H. Tolan, Chairman. **Refiled as Initiative Measure No. 233.**
- INITIATIVE MEASURE No. 232 (**Supreme Court Judges—Powers—Election**)—Filed March 14, 1966 by Walter H. Philipp of Seattle. No signatures presented for checking. **Refiled as Initiative Measure No. 31 to the Legislature.**
- *INITIATIVE MEASURE No. 233 (Repealing Freight Train Crew Law)**—Filed March 22, 1966 by same sponsors of Initiative Measure No. 231. The only change in text of Initiative Measure No. 233 was the deletion of one sentence of the preamble as contained in Section 1 of Initiative Measure No. 231. Thus, for all practical purposes, the two initiative measures cover the same legal ground. Signatures (166,866) filed July 6, 1966 and found to be sufficient. Measure submitted to the voters for decision at the November 8, 1966 state general election and approved into law by the following vote: **For—591,015 Against—339,978.** Act is now identified as Chapter 2, Laws of 1967.
- INITIATIVE MEASURE No. 234 (**Civil Service—Certain County Employees**)—Filed March 30, 1966 by the Committee to Improve County Government. The scope of this measure was limited to class AA and class A counties (King, Pierce and Spokane). In order to obtain additional support, a new proposal was drafted extending civil service to all counties and filed as Initiative Measure No. 237. For this reason, no attempt was made to obtain signatures for Initiative Measure No. 234.
- INITIATIVE MEASURE No. 235 (**Repealing Certain Mental Health Laws**)—Filed April 1, 1966 by Mrs. Rose R. Garrett Nelson of Puyallup. No signatures presented for checking.
- INITIATIVE MEASURE No. 236 (**Regulating Highway—Railroad Crossings**)—Filed April 15, 1966 by the Committee for the Elimination of Public Grade Crossings—Arthur J. McGinn of Spokane, Chairman. No signatures presented for checking.
- INITIATIVE MEASURE No. 237 (**Civil Service for County Employees**)—Filed April 15, 1966 by the Committee to Improve County Government—Anne Shannon of Des Moines, Secretary. No signatures presented for checking.
- INITIATIVE MEASURE No. 238 (**Prohibiting Regulation of Land Use**)—Filed January 5, 1968 by the Committee for Private Property Rights—Joseph W. Shott of Olympia, Chairman. No signatures presented for checking.
- INITIATIVE MEASURE No. 239 (**Mandatory County Civil Service System**)—Filed January 10, 1968 by the Special Committee of the King County Employees Association—Walter P. Barclay of Seattle, Chairman. No signatures presented for checking.
- INITIATIVE MEASURE No. 240 (**Termination: Certain Land Use Regulations**)—Filed January 15, 1968 by Robert W. Sollars of Everett. No signatures presented for checking.
- INITIATIVE MEASURE No. 241 (**Calling 1970 State Constitutional Convention**)—Filed February 2, 1968 by the Committee to Call a Constitutional Convention—S. Lynn Sutcliffe of Seattle, Chairman. No signatures presented for checking.
- *INITIATIVE MEASURE No. 242 (Drivers' Implied Consent—Intoxication Tests)**—Filed February 8, 1968 by the Washington State Medical Association—Dr. Charles P. Larson of Seattle, Vice-President. Signatures (123,589) filed July 3, 1968 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election and approved into law by the following vote: **For—792,242 Against—394,644.** Act is now identified as Chapter 1, Laws of 1969.
- INITIATIVE MEASURE No. 243 (**Information for Life Insurance Purchasers**)—Filed February 19, 1968 by Theodore Radcliffe of Wenatchee. No signatures presented for checking.

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INITIATIVE MEASURE No. 244 (**State—County Tax Millage Shift**)—Filed February 23, 1969 by the Washington State Association of County Commissioners. No signatures presented for checking.

*INITIATIVE MEASURE No. 245 (**Reducing Maximum Retail Service Charges**)—Filed April 4, 1968 by Joseph H. Davis, President, and Marvin L. Williams, Secretary-Treasurer of the Washington State Labor Council, AFL-CIO. Signatures (143,395) filed July 5, 1968 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election and approved into law by the following vote: **For—642,902 Against—551,394**. Act is now identified as Chapter 2, Laws of 1969.

INITIATIVE MEASURE No. 246—Filed January 6, 1970 by Donald N. McDonald. Immediately after filing, the sponsor decided to abandon the initiative measure. For this reason, Attorney General did not issue ballot title and no further action was taken. Refiled January 22, 1970 as Initiative Measure No. 248.

INITIATIVE MEASURE No. 247 (**Increasing Maximum Retail Service Charges**)—Filed January 20, 1970 by the Washington Citizens for Competitive Credit—A. F. Carey of Seattle, Secretary-Treasurer. No signatures presented for checking.

INITIATIVE MEASURE No. 248 (**Property Tax Millage Rate Reallocation**)—Filed January 22, 1970 by Donald N. McDonald of Bothell. No signatures presented for checking.

INITIATIVE MEASURE No. 249—Filed February 11, 1970 by the Committee for Bingo for Washington—State Representative Mark Litchman, Jr. of Seattle, Chairman. NOTE: Attorney General refused to issue a ballot title for this measure because, in his opinion, the initiative procedure cannot be used to amend the state constitution. No further action was taken by the sponsor.

INITIATIVE MEASURE No. 250 (**Certain Salary Increases—Voter Approval**)—Filed February 17, 1970 by the Committee for Voter Approved Salary Increases—Albert C. Navone of Seattle, Chairman. No signatures presented for checking.

INITIATIVE MEASURE No. 251 (**State Taxation—To Regulate Imposition**)—Filed March 12, 1970 by Vick Gould of Tax Limit League, Bellevue. Signatures (135,668) filed July 3, 1970 and found sufficient. Measure submitted to the voters for decision at the November 3, 1970 state general election and rejected by the following vote: **For—504,779 Against—527,263**.

INITIATIVE MEASURE No. 252 (**Property Taxation—Fixing Maximum Rate**)—Filed March 12, 1970 by Overtaxed, Inc.—Harley H. Hoppe, President. Due to technical reasons, the sponsor abandoned this measure and no further action was taken.

INITIATIVE MEASURE No. 253 (**Open Land—Special Taxation Basis**)—Filed March 24, 1970 by the Island County Branch of American Taxpayers Association, Inc.—John Metcalf, Vice-chairman. No signatures presented for checking.

INITIATIVE MEASURE No. 254 (**Certain Gambling Activities—Criminal Exemptions**)—Filed March 26, 1970 by the Washington State Federation of Fraternal, Patriotic, City and Country Clubs—M. R. Reynolds, President. No signatures presented for checking.

INITIATIVE MEASURE No. 255—Filed April 20, 1970 by Robert H. Keller, Jr. of Bellingham. Refiled April 23, 1970 as Initiative Measure No. 256.

INITIATIVE MEASURE No. 256 (**Prohibiting Certain Nonrefundable Beverage Receptacles**)—Filed April 23, 1970 by Robert H. Keller, Jr., of Bellingham. Signatures (188,102) filed July 1, 1970 and found sufficient. Measure submitted to the voters for decision at the November 3, 1970 state general election and rejected by the following vote: **For—511,248 Against—538,118**.

INITIATIVE MEASURE No. 257 (**Licensing Dog Racing—Parimutuel Betting**)—Filed April 29, 1970 by Donald Nicholson of Kirkland. No signatures presented for checking.

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- INITIATIVE MEASURE No. 258 (**Certain Cities—Greyhound Racing Franchises**)—Filed January 7, 1972 by Donald Nicholson of Kirkland. Signatures (151,856) filed July 7, 1972 and found sufficient. Measure submitted to the voters for decision at the November 7, 1972 state general election and rejected by the following vote: **For—526,371 Against—895,385.**
- INITIATIVE MEASURE No. 259 (**Providing for Presidential Preference Primary**)—Filed January 7, 1972 by Bellingham Junior Chamber of Commerce of Bellingham. No signatures presented for checking.
- INITIATIVE MEASURE No. 260 (**Regulating Horse and Dog Racing**)—Filed January 7, 1972 by Friends of Dog Racing (et al.) of Federal Way. No signatures presented for checking.
- INITIATIVE MEASURE No. 261 (**Liquor Sales by Licensed Retailers**)—Filed January 10, 1972 by Warren B. McPherson and Robert B. Gould of Seattle. Signatures (122,241) filed July 7, 1972 and found sufficient. Measure submitted to the voters for decision at the November 7, 1972 state general election and rejected by the following vote: **For—634,973 Against—779,568.**
- INITIATIVE MEASURE No. 262 (**Minimum Age—Alcoholic Beverage Purchases**)—Filed January 13, 1972 by David G. Huey of Sedro Woolley. No signatures presented for checking.
- INITIATIVE MEASURE No. 263 (**Tax Reform**)—Filed January 19, 1972 by Robert J. Corcoran of Puyallup. Refiled January 31, 1972 as Initiative Measure No. 267.
- INITIATIVE MEASURE No. 264 (**Liberalizing State Regulation of Marijuana**)—Filed January 20, 1972 by Stephen Wilcox, Debbie Yarbrough, and Thomsen Abbott of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 265—Filed January 20, 1972 by Joe Davis of Seattle. Refiled January 25, 1972 as Initiative Measure No. 266 with new sponsor.
- INITIATIVE MEASURE No. 266 (**Changing Congressional and Legislative Districts**)—Filed January 25, 1972 by Vernon L. Martin of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 267 (**Repealing Most Property Tax Exemptions**)—Filed January 31, 1972 by Robert J. Corcoran of Puyallup. No signatures presented for checking.
- INITIATIVE MEASURE No. 268 (**Unicameral Legislature**)—Filed February 8, 1972 by Philip Tenney Rensvold of Olympia. (Attorney General refused to issue ballot title because of opinion that initiative procedure cannot be used to amend constitution.)
- INITIATIVE MEASURE No. 269 (**Examinations for Diplomas and Degrees**)—Filed February 9, 1972 by Eugene Lydic of Kelso. No signatures presented for checking.
- INITIATIVE MEASURE No. 270 (**Election Campaign Financial Reports**)—Filed February 10, 1972 by Robert Corcoran of Puyallup. No signatures presented for checking.
- INITIATIVE MEASURE No. 271 (**Income Tax and Revenue Distribution**)—Filed February 28, 1972 by Charles Clark Marshall of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 272 (**Recreational Personal Property—Taxation Removed**)—Filed March 1, 1972 by Gary K. Ballew of Vancouver. No signatures presented for checking.
- INITIATIVE MEASURE No. 273—Filed March 2, 1972 by Margaret C. Tunks of Seattle. Rfiled March 13, 1972 as Initiative Measure No. 274 with new sponsor.
- INITIATIVE MEASURE No. 274 (**Reducing Motor Vehicle Fuel Tax**)—Filed March 13, 1972 by Jeffrey R. Perkins of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 275 (**Regulating Nonnative Wild Animal Sales**)—Filed March 23, 1972 by Harry and June Delaloye of Seattle. No signatures presented for checking.
- *INITIATIVE MEASURE No. 276 (**Disclosure—Campaign Finances—Lobbying—Records**)—Filed March 29, 1972 by Michael T. Hildt of Seattle. Signatures (162,710) were submitted and found sufficient. Submitted to the voters for decision at the November 7, 1972 state general

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election and approved by the following vote: **For**—959,143 **Against**—372,693. Act is now identified as Chapter 1, Laws of 1973.

INITIATIVE MEASURE No. 277 (**Camping on Certain Ocean Beaches**)—Filed April 5, 1972 by Carl P. Hanun of Aberdeen. No signatures presented for checking.

INITIATIVE MEASURE No. 278 (**Tax Revision—Income Tax—Schools**)—Filed April 14, 1972 by Senator Francis E. Holman, Senator Nat Washington, and Representative Charles Moon of Seattle. No signatures presented for checking.

INITIATIVE MEASURE No. 279 (**State Funding of Public Schools**)—Filed May 19, 1972 by Alvin C. Leonard, Jr., of Bothell. No signatures presented for checking.

INITIATIVE MEASURE No. 280 (**Limiting Special Legislative Sessions**)—Filed March 12, 1973 by Axel Julin, Chairman, Committee to Retain a Part Time Citizen Legislature. No signatures presented for checking.

INITIATIVE MEASURE No. 281—Filed June 8, 1973 by Bruce Helm of Alderwood Manor. Refiled June 12, 1973 as Initiative Measure No. 282 with a new sponsor, Kenneth D. Hansen of Seattle.

***INITIATIVE MEASURE No. 282 (Shall state elected officials' salary increases be limited to 5.5% over 1965 levels, and judges' the same over 1972 levels?)**—Filed June 12, 1973 by Kenneth D. Hansen of Seattle. Signatures (699,098) were submitted and found sufficient. Measure submitted to the voters for decision at the November 6, 1973 state general election and was approved by the following vote: **For**—798,338 **Against**—197,795. Act is now identified as Chapter 149, Laws of 1974 Extraordinary Session.

INITIATIVE MEASURE No. 283 (**Shall it be unlawful, except in an emergency, to hitchhike, or to pick up a hitchhiker along a public highway?**)—Filed January 18, 1974 by Ms. Sallyann Devine of Seattle. No signatures presented for checking.

INITIATIVE MEASURE No. 284 (**Shall corporations pay a 12% excise tax measured by income so that special school levies may be reduced or eliminated?**)—Filed January 22, 1974 by Representative Charles Moon. No signatures presented for checking.

INITIATIVE MEASURE No. 285 (**Shall all privately or corporately owned land, including residential real estate, annually be taxed a minimum of \$2.50 per acre?**)—Filed January 24, 1974 by Donn C. Higley of Seattle. No signatures presented for checking.

INITIATIVE MEASURE No. 286 (**Shall the membership of the legislature be reduced from forty-nine senators and ninety-eight representatives to twenty-one senators and sixty-three representatives?**)—Filed January 30, 1974 by Harley H. Hoppe of Seattle. No signatures presented for checking.

INITIATIVE MEASURE No. 287 (**Shall salmon net fishing be prohibited in designated Puget Sound and adjacent waters unless permitted by a newly established commission?**)—Filed January 31, 1974 by Dr. Charles F. Raab of Port Angeles. No signatures presented for checking.

INITIATIVE MEASURE No. 288 (**Shall couples with children under 18 be ineligible for divorce and, upon separation, shall a commission oversee their children's rights?**)—Filed February 1, 1974 by Joseph Garske of Yakima. No signatures presented for checking.

INITIATIVE MEASURE No. 289 (**Shall additional gambling activities, including slot machines and card rooms, be legalized, local regulation prohibited, and the state gambling commission replaced?**)—Filed February 4, 1974 by Roy Needham of Yakima. No signatures presented for checking.

INITIATIVE MEASURE No. 290 (**Shall liquor prices be limited and revenue distribution formulas changed, a new seven-member liquor board created, and an administrator appointed?**)—Filed February 25, 1974 by Senator William S. "Bill" Day of Spokane. No signatures presented for checking.

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- INITIATIVE MEASURE No. 291 (Shall parents and other persons be prohibited from inflicting or threatening bodily punishment upon children or mentally retarded persons?)—Filed March 12, 1974 by Ms. Shirley Amiel of Bellevue. No signatures presented for checking.
- INITIATIVE MEASURE No. 292 (Shall criminal penalties for state traffic law violations and laws imposing state retail sales taxes and use taxes be repealed?)—Filed March 18, 1974 by Jack Zektzer of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 293 (Shall present laws governing modification, renewal or nonrenewal of certificated school employees' contracts be repealed and merit salary systems adopted?)—Filed March 18, 1974 by Senator Hubert F. Donohue of Dayton. No signatures presented for checking.
- INITIATIVE MEASURE No. 294 (Shall the legislature be reduced to 21 senators and 63 representatives elected from single-member districts established by this initiative?)—Filed March 26, 1974 by Elizabeth J. Bracelin and Robert L. Burnham, Cosponsors. No signatures presented for checking.
- INITIATIVE MEASURE No. 295 (Shall the retail sales tax be eliminated on sales of food, clothing, medicines and medical devices, and residential construction costs?)—Filed April 4, 1974 by Richard Dymont, Chairman, Libertarian Party of Washington. No signatures presented for checking.
- INITIATIVE MEASURE No. 296 (Shall the 1973 law substituting principles of comparative negligence for those of contributory negligence in civil damage actions be repealed?)—Filed April 9, 1974 by James M. Petra of Chehalis. No signatures presented for checking.
- INITIATIVE MEASURE No. 297 (Shall any gambling activities be legal when licensed by the state gambling commission and authorized by the municipality where conducted?)—Filed April 15, 1974 by Gary Bacon, Chairman, Committee for Local Option. No signatures presented for checking.
- INITIATIVE MEASURE No. 298 (Shall an initiative be adopted stating that no person shall serve for more than eight consecutive years in the legislature?)—Filed May 10, 1974 by Harry S. Foster of Edmonds. No signatures presented for checking.
- INITIATIVE MEASURE No. 299 (Shall the tax on retail sales of liquor (spirits) in the original package be reduced by two cents per ounce?)—Filed May 13, 1974 by Alfred J. Schweppe on behalf of the Citizens Committee for Lower Liquor Taxes. Signatures (134,695) filed July 5, 1974. Petition failed. Not enough valid signatures obtained to place the measure on the November 5, 1974 state general election ballot.
- INITIATIVE MEASURE No. 300 (Shall certain rights of parents regarding public school curricula and teaching materials be defined and some school district programs restricted?)—Filed May 13, 1974 by Ms. Sally F. Tinner of Steilacoom. No signatures presented for checking.
- INITIATIVE MEASURE No. 301 (Shall present laws governing modification, renewal or nonrenewal of certificated school employees' contracts be repealed?)—Filed January 16, 1975 by Ms. Dorothy Roberts of Bellevue. No signatures presented for checking.
- INITIATIVE MEASURE No. 302 (Shall the minimum age for the purchase or consumption of alcoholic beverages be lowered to 18 years?)—Filed January 28, 1975 by Ms. Diahn Schmidt of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 303 (Shall an initiative be adopted declaring persons having served in the Congress a total of twelve years ineligible for reelection?)—Filed January 29, 1975 by Gene Goosman, Sr. of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 304 (Shall a new commission appoint the director of fisheries and manage food fish and shellfish for commercial and recreational purposes?)—Filed February 3, 1975 by Dr. Charles F. Raab of Port Angeles. No signatures presented for checking.

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- INITIATIVE MEASURE No. 305 (Shall the legal age for the use and consumption of alcoholic beverages be lowered to 19 years?)—Filed February 6, 1975 by Richard Spaulding and William G. Bowie, both of Cheney. No signatures presented for checking.
- INITIATIVE MEASURE No. 306 (Shall state appropriations be limited to 9% of state personal income and decreases in state support to municipalities be restricted?)—Filed February 13, 1975 by Kenneth D. Hansen of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 307 (Shall some common school curricula be specified, teaching methods limited and written parental consent to certain school activities be required?)—Filed March 7, 1975 by Paul O. Snyder of Tacoma. No signatures presented for checking.
- INITIATIVE MEASURE No. 308 (Shall sales and business and occupation taxes be removed from certain transactions involving clothing, food, shelter, and health care products?)—Filed March 10, 1975 by Carl R. Nicolai of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 309 (Shall the Shoreline Management Act of 1971 and the subsequent amendments to that Act be repealed?)—Filed March 14, 1975 by James Mark Toevs of Chehalis. No signatures presented for checking.
- INITIATIVE MEASURE No. 310 (Shall the present forest practices act be repealed and be replaced with provisions relating solely to requirements for reforestation?)—Filed March 18, 1975 by Ms. Betty J. Wells of Camano Island. No signatures presented for checking.
- INITIATIVE MEASURE No. 311 (Shall the death penalty be mandatory in cases of first degree murder and the definitions of degrees of murder revised?)—Filed March 20, 1975 by Representative Earl F. Tilly. No signatures presented for checking.
- INITIATIVE MEASURE No. 312 (Shall an initiative be passed lowering certain real property taxes to 1960 levels, or, if greater, those at last transfer?)—Filed April 4, 1975 by Donald H. Sallee of Brinnon. No signatures presented for checking.
- INITIATIVE MEASURE No. 313 (Shall the names of signers of initiative and referendum petitions be confidential and the petitions destroyed after they are canvassed?)—Filed April 4, 1975 by Donald H. Sallee of Brinnon. No signatures presented for checking.
- INITIATIVE MEASURE No. 314 (Shall corporations pay a 12% excise tax measured by income so that special school levies may be reduced or eliminated?)—Filed April 16, 1975 by Representative Charles Moon of Snohomish. Signatures (136,077) submitted and found sufficient. Submitted to the voters for decision at the November 4, 1975 state general election and was rejected by the following vote: **For**—323,831 **Against**—652,178.
- INITIATIVE MEASURE No. 315 (Shall maximum income levels entitling elderly and disabled persons to certain property tax exemptions be raised to \$10,000.00?)—Filed April 18, 1975 by Representatives Eleanor A. Fortson and John M. Fischer. No signature petitions presented for checking.
- *INITIATIVE MEASURE No. 316 (Shall the death penalty be mandatory in the case of aggravated murder in the first degree?)—Filed May 26, 1975 by Representative Earl Tilly of Wenatchee. Signatures (134,290) submitted and found sufficient. Submitted to the voters for decision at the November 4, 1975 state general election and was approved by the following vote: **For**—662,535 **Against**—296,257. Act is now identified as Chapter 9, Laws of 1975-76 2nd Extraordinary Session.
- INITIATIVE MEASURE No. 317 (Shall evidence of speeding violations obtained by radar, certain other electronic devices or unmarked police vehicles be inadmissible in court?)—Filed January 2, 1976 by David L. Bovy of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 318 (Shall all minimum age requirements of twenty-one years be reduced to eighteen?)—Filed January 6, 1976 by Martin Ringhofer of Seattle. No signature petitions presented for checking.

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- INITIATIVE MEASURE No. 319 (**Shall an initiative be adopted memorializing Congress to call a federal constitutional convention to limit taxation on income?**)—Filed January 7, 1976 by Clarence P. Keating, Jr. of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 320 (**Shall new or increased taxes be prohibited and regular property taxes retained in the districts where they are collected?**)—Filed January 2, 1976 by Shirley Amiel of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 321 (**Shall municipalities be empowered to permit gambling within their boundaries, licensed by the state, with tax revenues allocated to schools?**)—Filed January 13, 1976 by William O. Kumbera and the Committee for Tax Relief Through Local Option Gambling of Ocean Shores. Signatures (136,006) submitted and found insufficient to qualify measure to the state general election ballot.
- INITIATIVE MEASURE No. 322 (**Shall fluoridation of public water supplies be made unlawful and violations subject to criminal penalties?**)—Filed January 2, 1976 by Caroline A. Sudduth of Seattle. Signatures (135,441) submitted and found insufficient to qualify measure to the state general election ballot. Suit was filed with Thurston County Superior Court against the Secretary of State and on appeal to the Supreme Court, Initiative Measure No. 322 was placed on the general election ballot on October 13. It was rejected at the November 2, 1976 general election by the following vote: **For—469,929 Against—870,631.**
- INITIATIVE MEASURE No. 323 (**Shall an initiative be adopted declaring that no person shall hold most state elective offices more than twelve consecutive years?**)—Filed January 2, 1976 by Senator Peter von Reichbauer of Burton and Jack Metcalf of Langley. No signature petitions presenting for checking.
- INITIATIVE MEASURE No. 324 (**Shall the Shoreline Management Act of 1971 and subsequent amendments to that act be repealed?**)—Filed January 12, 1976 by Melvin G. Toyne of Mt. Vernon. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 325 (**Shall future nuclear power facilities which do not meet certain conditions and receive two-thirds approval by the legislature be prohibited?**)—Filed February 3, 1976 by David C. H. Howard of Olympia. Signatures (approximately 165,000) submitted and found sufficient. Submitted to the voters at the November 2, 1976 general election and rejected by the following vote: **For—482,953 Against—963,756.**
- INITIATIVE MEASURE No. 326 (**Shall grocery store sales of spirituous liquor be allowed, revenue distribution formulas changed, and the state liquor control board reconstituted?**)—Filed March 17, 1976 by Ruth Berliner of Tacoma. Sponsorship of initiative withdrawn May 17, 1976.
- INITIATIVE MEASURE No. 327 (**Shall commercial fishing and shellfishing be banned on Hood Canal until a sufficient supply is found to exist?**)—Filed March 12, 1976 by J.L. Parsons of Union. Refiled as Initiative Measure No. 330.
- INITIATIVE MEASURE No. 328 (**Relating to Term Limitation**)—Filed March 16, 1976 by Patrick W. Biggs of Seattle for the Thomas Jefferson Society. Attorney General declined to prepare ballot title.
- INITIATIVE MEASURE No. 329 (**Shall places where obscene films are publicly and regularly shown or obscene publications a principal stock in trade be prohibited?**)—Filed March 26, 1976 by C.R. Lonergan, Jr. of Seattle. Signatures (120,621) submitted and found insufficient to qualify measure for state general election ballot.
- INITIATIVE MEASURE No. 330 (**Shall the commercial taking of fish, crab and shrimp be banned on Hood Canal until a sufficient supply is available?**)—Filed April 12, 1976 by J.L. Parsons of Union. Refiled as Initiative to the Legislature No. 52.
- INITIATIVE MEASURE No. 331 (**Shall future school district special levies for operations be prohibited and previously approved operational levies for collection in 1977 be**

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- reduced?)—Filed March 27, 1976 by Jerold W. Thiedt of Monroe. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 332 (**Shall the state be removed from the liquor business in favor of large grocers and certain other private business enterprises?**)—Filed April 19, 1976 by Robert B. Gould and Warren McPherson of Woodinville. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 333 (**Shall a single pension system, coordinated with social security, replace existing systems for most public employees hired after June 30, 1977?**)—Filed April 19, 1976 by Senator August P. Mardesich of Everett. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 334 (**Shall the fluid ounce tax on spirituous liquor in the original package be lowered from four to two cents?**)—Filed April 29, 1976 by Juanita K. Heaton of Seattle. No signature petitions presented for checking.
- *INITIATIVE MEASURE No. 335 (Shall places where obscene films are publicly and regularly shown or obscene publications a principal stock in trade be prohibited?)**—Filed January 10, 1977 by C.R. Loneragan, Jr. of Seattle. Signatures (175,998) submitted and found sufficient. Submitted to the voters at the November 8, 1977 state general election and was approved by the following vote: **For—522,921 Against—431,989.** Act is now identified as Chapter 1, Laws of 1979.
- INITIATIVE MEASURE No. 336 (**Shall every municipality be authorized to permit all forms of state licensed gambling with tax revenues allocated to schools?**)—Filed January 11, 1977 by William O. Kumbera of The Committee for Tax Relief Through Local Option Gambling in Ocean Shores. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 337 (**Shall an initiative be adopted promoting the pursuit of peace through principals of mutual love and respect?**)—Filed January 10, 1977 by Kevin McKeigue of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 338 (**Shall driving motor vehicles up to 10 M.P.H. over the maximum speed limit be subject to fines not exceeding \$15.00?**)—Filed January 10, 1977 by Timothy Ramey of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 339 (**Shall the use of electronic voting devices and electronic vote tallying systems in any election in this state be prohibited?**)—Filed January 24, 1977 by Clarence P. Keating, Jr. of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 340 (**Shall a convention be called to propose a new state constitution for approval or rejection by the people in 1979?**)—Filed January 20, 1977 by Tom A. Alberg, Citizens Coalition for a Constitutional Convention of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 341 (**Shall minimum age requirements for various purposes other than drinking alcoholic beverages be reduced to eighteen years?**)—Filed February 7, 1977 by Martin Ringhofer of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 342 (**Shall an initiative be adopted urging all state legislatures to reject and rescind approval of the federal equal rights amendment?**)—Filed February 15, 1977 by Mrs. J.L. Glesener of Kennewick. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 343 (**Shall state property taxes be eliminated, all other taxes limited, and state support levels for local government, including schools, mandated?**)—Filed February 29, 1977 by Shirley Amiel, State Tax Freeze and School Funding Initiative Political Committee of Bellevue. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 344 (**Shall the laws of the state be rewritten by January 1, 1981, to eliminate, if possible, aniguity, redundancy and complexity?**)—Filed March 7, 1977 by Patrick M. Crawford of Tumwater. No signature petitions presented for checking.

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- *INITIATIVE MEASURE No. 345 (Shall most food products be exempt from state and local retail sales and use taxes, effective July 1, 1978?)**—Filed March 30, 1977 by J. Linsey Hinand, Chairperson. Signatures (168,281) submitted and found sufficient. Submitted to the voters at the November 8, 1977 state general election and was approved by the following vote: **For—521,062 Against—443,840**. Act is now identified as Chapter 2, Laws of 1979.
- INITIATIVE MEASURE No. 346 (Shall the system of property assessment be repealed and a state assessor adopt a system of uniform state-wide property assessment?)**—Filed May 31, 1977 by Susan Sink of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 347 (Shall payment of legislator's per diem allowances be limited to 120 days in odd-numbered years and 60 days in even-numbered years?)**—Filed June 13, 1977 by Robert B. Overstreet of Everett. No signature petitions presented for checking.
- INITIATIVE MEASURE No. 348 (Shall the new variable motor vehicle fuel tax be repealed and the previous tax and distribution formula be reinstated?)**—Filed June 29, 1977 by Harley Hoppe of Mercer Island. Signatures (202,168) submitted and found sufficient. Submitted to the voters at the November 8, 1977 general election and after a mandatory recount was rejected by the following vote: **For—470,147 Against—471,031**.
- INITIATIVE MEASURE No. 349 (Shall minimum age requirements for various purposes other than for drinking alcoholic beverages be reduced to eighteen years?)**—Filed January 12, 1978 by Mr. Martin Ringhofer of Seattle. Sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE No. 350 (Shall public educational authorities be prohibited from, assigning students to other than the nearest or next-nearest school with limited exceptions?)**—Filed February 10, 1978 by Mr. Ben Caley of Seattle. Signatures (182,882) submitted and found sufficient. Submitted to the voters at the November 7, 1978 general election and was approved by the following vote: **For—585,903 Against—297,991**. Act is now identified as Chapter 4, Laws of 1979.
- INITIATIVE MEASURE No. 351 (Shall the age at which persons may purchase, consume or sell alcoholic beverages be lowered from 21 to 19 years?)**—Filed February 24, 1978 by Timothy J. Niggemeyer of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 352 (Shall property owners not be liable for a trespasser's injury, unless the property owner intentionally and knowingly caused the injury?)**—Filed February 27, 1978 by Gayle Crawford of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 353 (Shall all containers of alcoholic beverages clearly bear the warning "Contents may cause brain damage, communication breakdown and family degradation"?)**—Filed April 28, 1978 by June and Pam Riggs of Mountlake Terrace. Sponsors failed to submit signatures for checking.
- INITIATIVE MEASURE No. 354 (Shall the first \$10,000 value of a residence regularly occupied by its owner or tenant be exempt from property taxes?)**—Filed May 5, 1978 by Harley Hoppe of Mercer Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 355 (Refiled as Initiative Measure No. 356)**
- INITIATIVE MEASURE No. 356 (Shall gambling and lotteries be permitted, and time and food sale limitations removed from sales of liquor by the drink?)**—Filed May 23, 1978 by Mr. James Banker of Renton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 357 (Shall the system of property assessment be repealed and a state assessor adopt a system of uniform state-wide property assessment?)**—Filed May 9, 1978 by Ms. Susan M. Sink of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE No. 358 (Shall assessed valuations of retired persons' residences remain unchanged and nonvoted school levies generally be limited to 6% annual increase?)**—

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Filed May 31, 1978 by Harley H. Hoppe of Mercer Island. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE No. 359 (**Shall increases in state tax revenues and expenditures be limited to the estimated rate of growth of state personal income?**)—Filed June 6, 1978 by Mr. Will Knedlik of Kirkland. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE No. 360 (**Shall an initiative be adopted limiting property taxes to 1% of value and requiring 2/3 legislative approval to change taxes?**)—Filed June 8, 1978 by Messrs. J. Van Self and A. M. Lee Parker of Tacoma. Sponsors submitted signatures but they were insufficient to appear on the November ballot.

INITIATIVE MEASURE No. 361 (**Shall minimum age requirements for various purposes other than for drinking alcoholic beverages be reduced to eighteen years?**)—Filed January 8, 1979 by Mr. Martin Ringhofer of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 362 (**Shall an initiative be adopted prohibiting the possession, construction, transportation or sale of nuclear weapons within the state of Washington?**)—Filed January 19, 1979 by Mr. Randal South of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 363 (**Shall strikes by public school teachers and other certificated employees be prohibited and penalties imposed for participation in such strikes?**)—Filed January 31, 1979 by Mr. Alan Gottlieb of Bellevue. No signatures were presented for checking.

INITIATIVE MEASURE No. 364 (**Shall persons with physical handicaps be allowed to serve in the state militia and state and local law enforcement units?**)—Filed February 1, 1979 by Mr. Daniel M. Jones of Olympia. No signatures presented for checking.

INITIATIVE MEASURE No. 365 (**Shall liquor retailing become a private business and a new five-member Liquor Control Board be created?**)—Filed February 22, 1979 by Mr. Dennis L. Weaver of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 366 (**Shall liquor retailing become a private business and any required food to liquor sales ratio in licensed restaurants be prohibited?**)—Filed February 22, 1979 by Mr. Dennis L. Weaver of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 367 (**Shall nursing homes be required to pay employees wages and benefits equal to those paid hospital employees performing comparable work?**)—Filed February 9, 1979 by Mr. John W. Hempelmann of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 368 (**Shall the state be absolutely prohibited from levying any property taxes and school districts be similarly restricted?**)—Filed February 16, 1979 by Mr. John R. McBride of Spokane. No signatures were presented for checking.

INITIATIVE MEASURE No. 369 (**Shall the possession or sale of firearms be restricted, and mandatory sentences imposed for the commission of crimes involving firearms?**)—Filed February 26, 1979 by Mr. Steven L. Kendall of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 370 (**Shall a presidential preference primary be held to determine the percentage of delegate positions allocated each major political party candidate?**)—Filed March 30, 1979 by Mr. Edward H. Hilscher of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 371 (**Shall nuclear facilities be required to meet certain safety and liability standards and obtain state-wide voter approval prior to operation?**)—Filed April 26, 1979 by Mr. William C. Montague of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE No. 372 (**State Lottery**)—Filed January 4, 1980 by Mr. Lawrence C. Clever of Olympia. This measure was refiled as Initiative Measure No. 380.

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- INITIATIVE MEASURE No. 373 (**Shall a Retiree's Residence be Taxed at its 1977 Value or, when Retirement Occurs after 1981, its Retirement Year Value?**)—Filed January 4, 1980 by Doyle R. Conner of Longview. No signatures presented for checking.
- INITIATIVE MEASURE No. 374 (**Shall Property Tax Increases be Limited to Two Percent Annually and Special Property Tax Exemptions Granted to Retired Persons?**)—Filed January 4, 1980 by Bill E. Hughes of Vancouver. No signatures presented for checking.
- INITIATIVE MEASURE No. 375 (**Shall There be Mandatory Minimum Sentences, Restricted Local Firearms Regulations, No Affirmative Action for Police and Firemen, and Additional Prisons?**)—Filed by Kent Pullen of Kent. No signatures presented for checking.
- INITIATIVE MEASURE No. 376 (**Shall Minimum Age Requirements for Various Legal Purposes, other than for Allowing Alcoholic Beverage consumption, be Reduced to Eighteen Years?**)—Filed January 16, 1980 by Martin Ringhofer of Seattle. No signature presented for checking.
- INITIATIVE MEASURE No. 377 (**Shall Liquor Retailing Become a Private Business and any Required Food to Liquor Sales Ratio in Licensed Restaurants be Prohibited?**)—Filed January 24, 1980. No signatures presented for checking. Sponsored by Walter M. Friel of Tacoma.
- INITIATIVE MEASURE No. 378 (**Shall the State be Absolutely Prohibited from Levying any Property Taxes and School Districts be Similarly Restricted with Limited Exceptions?**)—Filed by Art Lee of Bellingham. No signatures presented for checking.
- INITIATIVE MEASURE No. 379 (**Shall Binding Arbitration of Public School Collective Bargaining Disputes be Required, Strikes by Public School Employees Prohibited and Penalties Established?**)—Filed by Cathleen R. Pearsall of Tacoma. No signatures presented for checking. Filed on February 11, 1980.
- INITIATIVE MEASURE No. 380 (**Shall a State Lottery be Established and Operated by the Gambling Commission, with the Profits Deposited in the General Fund?**)—Filed February 11, 1980 by Lawrence C. Clever of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 381 (**Shall Snare and Leghold Traps be Prohibited after January 1, 1986, with Certain Exceptions Including Rodent Control and Public Health?**)—Filed January 31, 1980 by Curtiss J. Clumpner and Howard F. McGraw of Bellingham. The sponsors refiled the measure as No. 386.
- INITIATIVE MEASURE No. 382 (**Shall Joint Operating Agencies Obtain Voter Approval Prior to Issuing Bonds for the Construction or Acquisition of Significant Energy Facilities?**)—Filed February 15, 1980 by Tom Casey. Measure was later refiled as No. 385.
- *INITIATIVE MEASURE No. 383 (Shall Washington Ban the Importation and Storage of Non-medical Radioactive Wastes Generated Outside Washington, Unless Otherwise Permitted by Interstate Compact?)**—Filed February 7, 1980 by Allan H. Jones of Seattle. Sponsor submitted 148,166 signatures and the measure was subsequently certified to the ballot. Submitted to the voters at the November 4, 1980 general election and was approved by the following vote: **For**—1,211,606 **Against**—393,415.
- INITIATIVE MEASURE No. 384 (**Shall Limitations on Property Taxes and Assessments be Imposed and Other Tax Increases Prohibited Except by a Two-thirds Legislative Vote?**)—Filed February 20, 1980 by Normal Hildebrand of Tacoma. No signatures presented for checking.
- INITIATIVE MEASURE No. 385 (**Shall Joint Operating Agencies Obtain Voter Approval Prior to Issuing Bonds for the Construction or Acquisition of Significant Energy Facilities?**)—Filed March 3, 1980 by Tom Casey of Elma. No signatures presented for checking.

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- INITIATIVE MEASURE No. 386 (**Shall Snare and Leghold Traps be Prohibited after January 1, 1986, with Certain Exceptions, Including Rodent Control and Public Health?**)—Filed March 3, 1980 by Curtiss Clumpner of Lynnwood. No signatures presented for checking.
- INITIATIVE MEASURE No. 387 (**Shall Political Contributions and Campaign Practices be Limited, Conflicts of Interest Regulated, Disclosure Requirements Increased and Statutes in Conflict Repealed?**)—Filed March 11, 1980 by Ann Quantock of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 388 (**Shall Congress be Memorialized to Create a Space Shuttle/Energy Lottery to Increase Space Travel and Achieve Energy Independence?**)—Filed March 11, 1980 by Jeff Vale of Des Moines. No signatures presented for checking.
- INITIATIVE MEASURE No. 389 (**Shall it be Unlawful to Drive a Motor Vehicle Between the Hours of One and Two O'Clock on Sunday Afternoon?**)—Filed March 12, 1980 by Keith G. Wesley of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 390 (**Shall Private Retailers Replace State Liquor Stores with Sunday Package Sales Permitted, Tax Rates Revised and Certain Licensing Conditions Prohibited?**)—Filed April 1, 1980 by John Franco of Seattle. No signatures presented for checking.
- INITIATIVE MEASURE No. 391 (**Shall an Initiative be Adopted Providing that all Washington Land Shall be Taxed Exclusive of any Improvements on the Land?**)—Filed April 11, 1980 by Jimmy D. Whittenburg of Olympia. No signatures presented for checking.
- INITIATIVE MEASURE No. 392 (**Shall a retiree's residence be taxed at its 1977 value or, when retirement occurs after 1982, its retirement year value?**)—Filed January 19, 1981 by Doyle R. Conner of Longview. No signatures presented for checking.
- INITIATIVE MEASURE No. 393 (**Shall all timber sold by the state, or any political subdivision, be primarily processed within the state, and violations penalized?**)—Filed January 5, 1981 by Brian Sirls of Tacoma. No signatures presented for checking.
- *INITIATIVE MEASURE No. 394 (Shall public agencies obtain voter approval prior to issuing bonds for the construction or acquisition of major public energy projects?)**—Filed January 6, 1981 by Steve Zemke of Seattle. Sponsor submitted 185,984 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 3, 1981 general election and was approved by the following vote: **For—532,178 Against—384,419**
- INITIATIVE MEASURE No. 395 (**Shall all property be taxable based on 1977 valuations; revaluations be prohibited; and excess school levies required two-thirds voter approval?**)—Filed January 5, 1981 by Art Lee of Bellingham. No signatures were presented for checking.
- INITIATIVE MEASURE No. 396 (**Shall voter approval be required to construct or finance public or private energy facilities costing more than one billion dollars?**)—Filed January 19, 1981 by Gretchen J. Hendricks and Jim Lazar of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 397 (**Shall an initiative be adopted requiring the legislature to petition Congress to call a constitutional convention to roll back gasoline prices?**)—Filed January 19, 1981 by Robert G. Materson of Ellensburg. No signatures were presented for checking.
- INITIATIVE MEASURE No. 398 (**Inheritance and Gift Tax**)—Filed by Dick Patten of Seattle. This measure was refiled as Initiative Measure No. 402.
- INITIATIVE MEASURE No. 399 (**Shall inheritance and gift taxes be abolished, and state death taxes be restricted to the federal estate tax credit allowed?**)—Filed February 19, 1981 by Dick Patten of Seattle. Sponsor refiled this initiative as Initiative Measure No. 402.

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- INITIATIVE MEASURE No. 400 (**Shall excise, inheritance, gift and property taxes be replaced by a transaction tax on receiving property, limited to one percent?**)—Filed March 27, 1981 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 401 (**Shall contributions to legislative candidates be limited, publicity practices regulated, disclosure required, and civil enforcement and criminal penalties be imposed?**)—Filed April 1, 1981 by Carol Jean Coe of Federal Way. The sponsor presented 141,282 signatures for checking. These signatures were found insufficient to qualify for the general election ballot.
- *INITIATIVE MEASURE No. 402 (Shall inheritance and gift taxes be abolished, and state death taxes be restricted to the federal estate tax credit allowed?)**—Filed April 3, 1981 by Dick Patten of Seattle. The sponsor presented 161,449 signatures for checking. The measure was subsequently certified to the ballot. Submitted to the voters at the November 3, 1981 general election and was approved by the following vote: **For—610,507 Against—297,445.**
- INITIATIVE MEASURE No. 403 (**Shall the legal possession of handguns or handgun ammunition be restricted, licensing requirements be broadened and criminal penalties be imposed?**)—Filed March 16, 1981 by Steven L. Kendall of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 404 (**Shall an independent commission be responsible for both congressional and legislative redistricting every ten years according to certain prescribed standards?**)—Filed April 30, 1981 by Jolene Unsoeld of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 405 (**Alcoholic beverages**)—Filed April 23, 1981 by Robert J. Corcoran of Puyallup. This measure was refiled as Initiative Measure No. 406.
- INITIATIVE MEASURE No. 406 (**Shall all liquor retailing become a private business subject to certain restrictions, and the tax on liquor sales be reduced?**)—Filed May 15, 1981 by Robert J. Corcoran of Puyallup. No signatures were presented for checking.
- INITIATIVE MEASURE No. 407 (**Shall the crime victims' compensation program be continued, funds appropriated, and programs established to provide information to victims and witnesses?**)—Filed May 20, 1981 by Manuel E. Costa of Marysville. This measure was refiled as Initiative to the Legislature No. 75.
- INITIATIVE MEASURE No. 408 (**Motor fuel taxes**)—Filed May 20, 1981 by Harley H. Hoppe of Mercer Island. This measure was refiled as Initiative Measure No. 409.
- INITIATIVE MEASURE No. 409 (**Shall the motor vehicle fuel and license tax laws be amended to restore prior tax rates and revise revenue distribution?**)—Filed June 1, 1981 by Harley H. Hoppe of Mercer Island. No signatures were presented for checking.
- INITIATIVE MEASURE No. 410 (**Shall all real and personal property be taxable on the basis of 1977 valuations and any revaluation thereafter be prohibited?**)—Filed January 4, 1982 by Arthur E. Lee of Wenatchee. No signatures were presented for checking.
- INITIATIVE MEASURE No. 411 (**Shall most maximum loan and retail sales interest rates be the higher of 12% or 1% over the discount rate?**)—Filed January 4, 1982 by Marvin L. Williams and Lawrence G. Kenney of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 412 (**Shall the maximum interest rate on retail sales be the higher of 12% or 1% over the federal discount rates?**)—Filed January 4, 1982 by Marvin L. Williams and Lawrence G. Kenney of Seattle. The sponsors submitted 183,249 signatures for checking. The measure was subsequently certified to the ballot. Submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: **For—452,710 Against—880,135.**

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- INITIATIVE MEASURE No. 413 (**Shall the present state owned and operated liquor distribution system be abolished and replace with licensed privately owned liquor dealers?**)—Filed January 6, 1982 by Robert J. Corcoran of Puyallup. This measure refiled as Initiative No. 434.
- INITIATIVE MEASURE No. 414 (**Shall a system requiring a minimum five cent refund on sales of beer, malt and carbonated beverage containers be established?**)—Filed January 7, 1982 by Robert C. Swanson (Citizens for a Cleaner Washington) of Seattle. The sponsors submitted 193,347 signatures for checking. The measure was subsequently certified to the ballot. It was submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: **For**—400,156 **Against**—965,951.
- INITIATIVE MEASURE No. 415 (**Shall a state board of dentistry be established to license and regulate the practice of dentistry independent of licensed dentists?**)—Filed January 19, 1982 by Homer A. Moulthrop (Citizens of Washington for Independent Dentistry) of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 416 (**Shall voter approval be required to increase private utility rates by more than eight percent in any twelve-month period?**)—Filed January 27, 1982 by Wilmot A. Hall, Jr. of Olympia. This measure refiled as Initiative No. 419.
- INITIATIVE MEASURE No. 417 (**Shall the taxable value of principal residences of retirees over 60 be frozen at 75% of current assessed value?**)—Filed January 27, 1982 by Ann Clifton of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 418 (**Shall the state's temporarily increased retail sales and use tax rate be reduced from 5.5% to 4.5%?**)—Filed February 8, 1982 by Gregory R. McDonald of Redmond. No signatures were presented for checking.
- INITIATIVE MEASURE No. 419 (**Shall voter approval be required to increase most utility rates by more than eight percent in any twelve-month period?**)—Filed February 11, 1982 by Wilmot A. Hall of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 420 (**Shall all penalties, taxes and other limitations pertaining to the use, possession, cultivation, sale or transportation of marijuana be removed?**)—Filed February 22, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 421 (**Shall emission limitations for motor vehicles, air quality standards relating to such emissions, and vehicle emission inspection programs be abolished?**)—Filed February 22, 1982 by Douglas L. Solbeck and Linda D. Solbeck of Lynnwood. No signatures were presented for checking.
- INITIATIVE MEASURE No. 422 (**Shall a transaction tax on money and property transfers, not exceeding 1%, be substituted for excise, inheritance and property taxes?**)—Filed February 10, 1982 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 423 (**Shall most sales or transfers of vehicles, aircraft and boats be taxed at current values, less trade-in, unless previously taxed?**)—Filed February 25, 1982 by Stephen Michael and Earl N. Dunham of Longview. No signatures were presented for checking.
- INITIATIVE MEASURE No. 424 (Number assigned in error.)
- INITIATIVE MEASURE No. 425 (**Shall state marijuana criminal prohibitions, except sales for profit, be repealed but municipal prohibitions be permitted for those under eighteen?**)—Filed March 12, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 426 (**Shall the value of trade-ins of like kind be subtracted from the tax base for state sales and use taxes?**)—Filed March 12, 1982 by Stephen Michael and Earl N. Dunham of Longview. No signatures were presented for checking.

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- INITIATIVE MEASURE No. 427 (**Shall the state Industrial Insurance Act be amended so as to eliminate the option for covered employers to self-insure?**)—Filed March 4, 1982 by Jack C. Martin of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE No. 428 (**Shall per diem, travel expenses and moving allowances to public officers, employees, board members and elected officials be largely prohibited?**)—Filed March 2, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 429 (**Shall public officers' salaries be reduced to 1979 levels; benefits eliminated; and any further salary increases conditioned upon voter approval?**)—Filed March 2, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 430 (**Shall the possession, use, cultivation and transportation of marijuana by persons and older be legalized?**)—Filed March 25, 1982 by Lawrence P. McMahon of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 431 (**Shall laws concerning lobbying, political fund raising, and the use of such funds be amended, with fees and penalties imposed?**)—Filed March 10, 1982 by V. R. Van Dyk of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE No. 432 (**Shall monthly grants of Aid to Families with Dependent Children be limited to \$300 or \$450, depending upon family size?**)—Filed March 16, 1982 by Robert S. Havens and Jean M. Havens of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE No. 433 (**Shall able persons receiving aid to families with dependent children be required to a community work experience program?**)—Filed March 19, 1982 by Robert S. Havens and Jean M. Havens of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE No. 434 (**Shall the state owned and operated liquor distribution system be abolished and replaced with licensed privately owned liquor dealers?**)—Filed April 13, 1982 by Robert J. Corcoran of Puyallup. This initiative was withdrawn and later filed as Initiative to the Legislature No. 78.
- INITIATIVE MEASURE No. 435 (**Shall corporate franchise taxes, measured by net income, replace sales taxes on food and state corporate business and occupation taxes?**)—Filed April 12, 1982 by Dr. James A. McDermott of Seattle. The sponsor submitted 250,285 signatures for checking. The measure was subsequently certified to the ballot. It was submitted to the voters at the November 2, 1982 general election and was rejected by the following vote: **For—453,221 Against—889,091.**
- INITIATIVE MEASURE NO. 436 (**Shall most food products be exempt from state and local retail sales and use taxes, effective December 2, 1982?**)—Filed April 16, 1982 by Gregory McDonald of Redmond. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 437 (**Shall the Food Tax Elimination Act of 1982, exempting most food products from retail sales and use taxation be enacted?**)—Filed April 15, 1982 by Stephen Michael and Frank Brunner of Lacey. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 438 (**Shall tuition and fees be reduced, and the legislature set future increases based on a percentage of the educational costs?**)—Filed April 16, 1982 by Dennis Eagle (People for Affordable College Tuition) of Bremerton. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 439 (**Shall county energy allocations in energy emergencies be in direct proportion to the percentage voting against Initiative 394 in 1981?**)—Filed May 5, 1982 by Richard Hastings of Pasco. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 440 (**Shall sellers of home electronic equipment be licensed and commercial repairers of such equipment be required to meet competency standards?**)—

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- Filed April 20, 1982 by Carl E. McDonald of Sunnyside. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 441 (**Shall Initiative 394, requiring voter approval of bonds for major energy project construction or acquisition by public agencies, be repealed?**)—Filed April 27, 1982 by David L. Moore of Richland. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 442 (**Shall the present gambling act be repealed, broader gambling activities authorized, taxes imposed, and certain revenues be dedicated to schools?**)—Filed April 30, 1982 by Harry Rowe (Committee for Gambling Taxes for Schools) of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 443 (**Shall the present gambling act be repealed, broader gambling activities authorized, taxes imposed, and certain revenues be dedicated to schools?**)—Filed May 25, 1982 by Clifford A. Stone of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 444 (**Shall a tax not to exceed 1% be imposed upon transfers of money or property and present taxes be repealed?**)—Filed January 14, 1983 by Clarence P. Keating of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 445 (**Shall eligibility for appointment to Game Commission be restricted; fees reduced; and processing of wildlife claims be eliminated?**)—Filed January 14, 1983 by David Littlejohn of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 446 (**Shall elections be held to approve or disapprove the performance of state agencies designated by petitions signed by 10,000 registered voters?**)—Filed January 31, 1983 by James R. Collier of Silverdale. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 447 (**Shall the present Gambling Act be repealed; broader gambling activities authorized; taxes imposed; and certain revenues dedicated to schools?**)—Filed February 14, 1983 by Audrey Stone of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 448 (**Shall retail sales and use taxes be reduced, the watercraft use tax eliminated, and a penalty for tax nonpayment reduced?**)—Filed February 25, 1983 by Kent Pullen of Kent. This measure refiled as Initiative Measure No. 452.
- INITIATIVE MEASURE NO. 449 (**Elimination of WPPSS**)—Filed March 1, 1983 by Theodore A. Mahr of Olympia. This measure refiled as Initiative Measure No. 451.
- INITIATIVE MEASURE NO. 450 (**Attorney General declined to prepare a ballot title**)—Filed March 4, 1983 by John A. Kilma of Mercer Island. This measure refiled as Initiative Measure No. 453.
- INITIATIVE MEASURE NO. 451 (**Shall laws relating to electrical joint operating agencies be repealed and existing agencies be directed to sell assets and terminate?**)—Filed March 7, 1983 by Theodore Mahr of Olympia. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 452 (**Shall the state sales tax be reduced to 4.5% and business and occupation surtaxes and boat excise taxes be repealed?**)—Filed March 11, 1983 by Kent Pullen of Kent. The sponsors submitted 146,689 signatures for checking. Verification was not complete at time of publication.
- INITIATIVE MEASURE NO. 453 (**Shall the federal Internal Revenue Service's notices of the Privacy and Paper Work Reduction Acts be, by state law declarations, prohibited?**)—Filed March 21, 1983 by John A. Kilma of Mercer Island. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 454 (**Shall abortions, unless necessary to preserve life, be ineligible for state medical aid to categorically needy persons under Title XIX?**)—Filed March 28, 1983 by James L. King, Jr. of Tacoma. No signatures were presented for checking.

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INITIATIVE MEASURE NO. 455 (Shall the state be directed go seek, to require payment in gold of state held securities having a gold clause?)—Filed January 9, 1984 by Robert Ellison of Seattle. This measure refiled as Initiative Measure No. 461.

***INITIATIVE MEASURE NO. 456 (Shall Congress be petitioned to decommmercialize steelhead, and state policies respecting Indian rights and management of natural resources be enacted?)**—Filed January 13, 1984 by Ellis Lind of Redmond and S/SPAWN. Sponsor submitted 201,188 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was approved by the following vote: **For—916,855 Against—807,825**

INITIATIVE MEASURE NO. 457 (Shall minimum age requirements by public and private entities be reduced to age 18 except those relating to drinking alcohol?)—Filed January 9, 1984 by Martin D. Ringhofer of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 458 (Shall watercraft be taxed on length rather than value and the funds be used for boating safety programs and facilities?)—Filed January 18, 1984 by Joseph L. Williams of Mercer Island. This measure refiled as Initiative Measure No. 459.

INITIATIVE MEASURE NO. 459 (Shall watercraft be taxed on length rather than value and the funds be used for hoating safety programs and facilities?)—Filed January 20, 1984 by Louise Miller of Woodinville. No signatures were presented for checking.

INITIATIVE MEASURE NO. 460 (Shall an additional tax be imposed, on beer, liquor, and out-of-state wine, for crime victims, alcohol rehabilitation, enforcement, and education?)—Filed January 12, 1984 by E.C. Renas of Lynnwood. No signatures were presented for checking.

INITIATIVE MEASURE NO. 461 (Shall the state seek to require corporations which issued securities having a gold clause to make payment in gold coin?)—Filed January 23, 1984 by Robert Ellison of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 462 (Shall Congress be memorialized to create a space shuttle/energy lottery to increase space travel and achieve energy independence?)—Filed January 13, 1984 by Jeff Vale of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 463 (Shall the legislature be directed to petition Congress to either propose a balanced budget constitutional amendment or call a convention?)—Filed January 24, 1984 by James R. Medley of Seattle. No signatures were presented for checking.

***INITIATIVE MEASURE NO. 464 (Shall the value of trade-ins of like kind property be excluded from the selling price for the sales tax computation?)**—Filed February 24, 1984 by Eugene A. Prince of Thornton. Sponsor submitted 196,728 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was approved by the following vote: **For—1,175,781 Against—529,560**

INITIATIVE MEASURE NO. 465 (Shall state sales and business tax rates be reduced and limitations imposed on state general fund spending and tax increases?)—Filed February 16, 1984 by Kent Pullen of Kent. No signatures were presented for checking.

INITIATIVE MEASURE NO. 466 (Shall Nevada type gambling, regulated by the State Gambling Commission, be permitted if approved by voters in cities and counties?)—Filed February 10, 1984 by Fred M. Ladd of Ocean Shores. No signatures were presented for checking.

INITIATIVE MEASURE NO. 467 (Shall a tax not to exceed 1% be imposed upon transfers of money or property and present taxes be repealed?)—Filed February 14, 1984 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.

INITIATIVE MEASURE NO. 468 (Shall real property tax rates be generally limited to one percent of 1975 property tax values, subject to limited adjustments?)—Filed March 20, 1984 by Martin H. Ottesen of Tacoma. No signatures were presented for checking.

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- INITIATIVE MEASURE NO. 469 (**Shall the State Gambling Commission be abolished and the net proceeds of some gambling activities be taxed 25% for schools?**)—Filed March 15, 1984 by Michael J. Kinsley of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 470 (**Shall public funding of abortions be prohibited, and state funding required to prevent deaths of unborn children and pregnant women?**)—Filed April 2, 1984 by Michael Undseth of Brier. This measure refiled as Initiative Measure No. 471.
- INITIATIVE MEASURE NO. 471 (**Shall public funding of abortions be prohibited except to prevent the death of the pregnant woman or her unborn child?**)—Filed April 16, 1984 by Michael Undseth of Brier. Sponsor submitted 162,324 signatures. The measure was subsequently certified to the ballot. Submitted to the voters at the November 6, 1984 general election and was rejected by the following vote: **For**—838,083 **Against**—949,921
- INITIATIVE MEASURE NO. 472 (**Regarding federal initiative and referendum powers.**)—Filed June 25, 1984 by Steven A. Panteli of Bellingham. Attorney General declined to write a ballot title because time limit expired.
- INITIATIVE MEASURE NO. 473 (**Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?**)—Filed January 7, 1985 by Clarence P. Keating, Jr. of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 474 (**Shall property taxes be reduced by deleting taxes previously paid on property now exempt from the 106% tax levy calculation?**)—Filed January 31, 1985 by Orville L. Barnes of Spokane. This measure refiled as Initiative Measure No. 477.
- INITIATIVE MEASURE NO. 475 (**Shall Congress be requested to call a constitutional convention solely to propose an amendment providing federal initiative and referendum powers?**)—Filed January 23, 1985 by Steven A. Panteli of Bellingham. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 476 (**Shall denturists be licensed by the state and permitted to supply dentures to people without written directives from a dentist?**)—Filed February 25, 1985 by Eldo Al Hohman of Seattle. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 477 (**Shall maximum permissible regular property tax levies be reduced by excluding inventory taxes, and voter-approved taxes from the 106% limitation?**)—Filed March 14, 1985 by Orville L. Barnes of Spokane. No signatures were presented for checking.
- INITIATIVE MEASURE NO. 478 (**Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?**)—Filed January 6, 1986 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 479 (**Shall state and local governments be prohibited from funding abortion services unless they are necessary to preserve the woman's life?**)—Filed January 6, 1986 by Michael Undseth of Lynnwood. The sponsors submitted 173,858 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.
- INITIATIVE MEASURE NO. 480 (**Regarding the publishing of names of victims of sexual attack.**)—Filed January 6, 1986 by Philip A. Hamlin of Shelton. This measure refiled as Initiative Measure No. 481.
- INITIATIVE MEASURE NO. 481 (**Shall news media identifying victims, witnesses, or those accused, of sex crimes be fined unless law enforcement has requested disclosure?**)—Filed January 14, 1986 by Philip A. Hamlin of Shelton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 482 (**Shall more out-of-state licensed motor vehicles be required to obtain Washington licenses and the penalties imposed for non-compliance be**

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- increased?)—Filed January 6, 1986 by M. Anders Tronsen of Duvall. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 483 (Shall the 55 m.p.h. speed limit adopted for energy conservation be rescinded and higher speed limits be established as appropriate?)—Filed January 7, 1986 by DeAnn Pullar of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 484 (Shall the state owned liquor stores be permanently closed and grocery stores and other outlets be licensed to sell liquor?)—Filed January 10, 1986 by Russell J. McCurdy of Seattle. This measure was refiled as Initiative Measure No. 487.
- INITIATIVE MEASURE NO. 485 (Shall the state be directed to submit a notice to Congress disapproving designation of a Washington nuclear waste repository site?)—Filed January 28, 1986 by Patricia Anne Herbert of Seattle. This measure was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 486 (Shall new taxes or increases in tax rates require a two-thirds vote by the governing body of the taxing authority?)—Filed January 29, 1986 by Don Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 487 (Shall state liquor stores, and state wholesaling of liquor, be discontinued and qualified grocery stores be licensed to sell liquor?)—Filed February 2, 1986 by Russell J. McCurdy of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 488 (Shall the state ferry system be managed by three full-time commissioners who will set ferry fares, staffing levels, and wages?)—Filed February 3, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 489 (Shall the legislature submit a constitutional amendment requiring voter approval of new taxes and full funding of state retirement systems?)—Filed February 11, 1986 by James L. King, Jr. of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 490 (Shall knowingly employing, in certain jobs, persons having preferences for or orientation toward conduct defined as sexually deviant, be prohibited?)—Filed February 21, 1986 by Glen Dobbs, of Chehalis. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 491 (Shall the minimum disability retirement allowance for Washington Public Employees' Retirement System members be sufficient to pay for medical insurance?)—Filed February 14, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 492 (Shall disability retirees under the Washington Public Employees' Retirement System be exempt from paying state recreational use and entry fees?)—Filed February 14, 1986 by Winfred P. Williams of Bainbridge Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 493 (Shall the legislature be statutorily prohibited from increasing taxes or imposing new taxes unless approved by 60% of each house?)—Filed March 11, 1986 by G. Robert Williams of Longview. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 494 (Shall state bonds be issued to raise funds for consumer grants to be deposited in banks for qualified registered voters?)—Filed March 24, 1986 by Steven A. Tracy of Longview. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 495 (Shall hazardous waste laws be amended to broaden state cleanup enforcement authority, increase and impose fees and specify strict liability?)—Filed April 24, 1986 by Pam Crocker-Davis of Lacey. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 496 (**Shall certain excise taxes imposed in lieu of property taxes be limited to one percent of true and fair value?**)—Filed on January 5, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 497 (**Shall constitutional impact statements reflecting constitutional compliance or noncompliance be required to accompany all bills introduced in the state legislature?**)—Filed on January 5, 1987 by John A. Klima of Issaquah. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 498 (**Shall approval by two-thirds of a governing body be required for new taxes, tax rate increases, or tax base enlargement?**)—Filed on January 9, 1987 by D.E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 499 (**Shall maximum tax rates on real and personal property be reduced and a new maximum include voter approved tax levies?**)—Filed on January 23, 1987 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 500 (**Shall a transaction tax, not to exceed 1% on transfers of money or property replace present state and local taxes?**)—Filed on January 20, 1987 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 501 (**Shall the statutory maximum tax per gallon on motor vehicle fuels be reduced to a 15 cents per gallon maximum?**)—Filed on January 28, 1987 by Cecil F. Herman of Olympia. Sponsored failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 502 (**Shall the state law which requires the driver and passengers of a motor vehicle to use safety belts be repealed?**)—Filed on February 9, 1987 by Donald T. Adsitt of Kennewick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 503 (**Shall motor vehicle owners and operators be required to maintain vehicle liability insurance and submit proof thereof to license vehicles?**)—Filed on February 13, 1987 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 504 (**Shall individuals' net worth be taxed except for current bonded indebtedness be eliminated, and other taxes be reduced?**)—Filed on March 17, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 505 (**Shall individuals' and trusts' net worth be taxed, not property except for current bonded indebtedness, and other taxes be reduced?**)—Filed on March 27, 1987 by Meta Heller of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 506 (**Shall the State conduct a March presidential preference primary for major political party candidates and certain election statutes be changed?**)—Filed on May 12, 1987 by Eddie Rye, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 507 (**Shall motor vehicle liability insurance be required to drive in this state and proof of insurance submitted to license vehicles?**)—Filed on January 12, 1988 by William D. Smith of Cashmere. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 508 (**Shall the maximum for property tax rates be reduced and a maximum established to include tax levies approved by voters?**)—Filed on January 8, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 509 (**Shall the first \$150,000 of each piece of property's assessed valuation be exempt from the payment of the property taxes?**)—Filed on January 15, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 510 (**Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge the tax base?**)—Filed on January 12, 1988 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 511 (Shall the 106% levy lid limiting the amount taxing districts can levy as regular property taxes be reduced to 98%)—Filed on January 21, 1988 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 512 (Shall state and local tax rates, fees, fines and other charges be stabilized then reduced 2% annually for five years?)—Filed on January 11, 1988 by Judith Anderson of Brush Prairie. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 513 Filed on January 19, 1988 by Michael P. Shanks of Seattle. Measure was refiled as Initiative No. 514.
- INITIATIVE MEASURE NO. 514 (Shall household and local commercial movers be exempted from rate and service area regulation by the Utilities and Transportation Commission?)—Filed on February 11, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 515 (Shall the January state holiday which celebrates the birth of Martin Luther King, Jr. be officially designated "Civil Rights Day"?)—Filed on February 10, 1988 by Brian Burgett of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 516 (Shall a transaction tax, not to exceed 1%, on transfers of money or property replace present state and local taxes?)—Filed on March 4, 1988 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 517 (Shall the state operate waste dumpsites and a Hanford facility, require separation of recyclable refuse, and regulate all garbage collectors?)—Filed on March 9, 1988 by Michael P. Shanks of Seattle. Sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE NO. 518 (Shall the state minimum wage increase from \$2.30 to \$3.85 (January 1, 1989) and then to \$4.25 (January 1, 1990) and include agricultural workers?)—Filed on March 21, 1988 by Jennifer Belcher of Olympia and Art Wang of Tacoma. The sponsors submitted 300,900 signatures for checking. The measure was subsequently certified to the ballot and was submitted to the voters at the November 8, 1988 general election. It was approved by the following vote: For—1,354,454; Against—414,926.
- INITIATIVE MEASURE NO. 519 (Shall continued frequent contacts with both parents be the most important factor considered by a court in determining child custody?)—Filed on March 3, 1988 by Dan D. Milne of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 520 (Shall blood donors, in a voluntary noncompensatory blood donation program, have the right to designate the recipient of their blood?)—Filed on March 29, 1988 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 521 (Shall active members of the Washington State Bar Association be ineligible to serve as a state legislative representative or senator?)—Filed on March 29, 1988 by Eugene Goosman of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 522 Filed on March 24, 1988 by James K. Linderman of Yacolt. Measure was refiled as Initiative to the Legislature No. 101.
- INITIATIVE MEASURE NO. 523 (Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge the tax base?)—Filed on January 9, 1989 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 524 (Shall the state expand the definition of child pornography, restrict display of materials, and limit defenses to sexual exploitation charges?)—Filed on January 10, 1989 by Andrea K. Vangor of Kirkland. The sponsor submitted 163,670 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.

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- INITIATIVE MEASURE NO. 525 (**Shall the first \$100,000 of the assessed value of each piece of property be exempt from payment of property taxes?**)—Filed on January 9, 1989 by Frank D. Parsons of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 526 (**Shall tax, fee and fine rates be reduced 2% annually for five years and new taxes require two-thirds voter approval?**)—Filed on January 23, 1989 by Judith Anderson of Vancouver. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 527 (**Shall a transaction tax, not exceeding 1% on the transfers of money or property, replace present state and local taxes?**)—Filed on January 18, 1989 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 528 (**Shall state laws relating to child custody be revised emphasizing frequent contact with each parent and each having equal custody?**)—Filed on January 18, 1989 by Dan Milne of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 529 (**Shall blood donors, in a voluntary noncompensatory blood donation program, have the right to designate the recipient of their blood?**)—Filed on February 16, 1989 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 530 Filed on April 13, 1989 by Lyle Bates of Spanaway. Measured was refiled as Initiative to the People No. 531.
- INITIATIVE MEASURE NO. 531 (**Shall business donations for child services, benefiting those with income below 200% of federal poverty guidelines, receive state tax credits?**)—Filed on April 26, 1989 by Lyle Bates of Spanaway. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 532 (**Shall the 1989 Omnibus Alcohol and Controlled Substances Act be repealed, penalties revised for supplying minors, and some marijuana legalized?**)—Filed on May 10, 1989 by Michael Shanks of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 533 (**Shall child custody laws be revised and court custody orders normally direct equal continued and frequent contacts with each parent?**)—Filed on January 8, 1990 by Bill Harrington of Edmonds. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 534 (**Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?**)—Filed on January 9, 1990 by Andrea K. Vangor of Kirkland. The sponsor submitted 180,373 signatures for checking and they were found insufficient to qualify the measure for the state general election ballot.
- INITIATIVE MEASURE NO. 535 (**Shall property value for tax purposes be, the January 1, 1985 value or subsequent sale price, revised annually reflecting cost of living?**)—Filed on January 9, 1990 by Marijcke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 536 (**Shall minimum sentences ranging from five to forty years be established for each of twenty-one crimes listed in this initiative?**)—Filed on January 19, 1990 by Thomas R. Connon of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 537 (**Shall a transaction tax, not to exceed 1%, on transfers of money and property replace present state and local taxes?**)—Filed on January 22, 1990 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 538 (**Shall political contributions be limited regarding amount, timing and residency of contributors, and elected officials restricted on mailings and**

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- honoraria?)**—Filed on January 29, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 539 (**Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?**)—Filed on January 26, 1990 by D. E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 540 (**Shall the state be required to include in the medicaid program coverage for chiropractic services?**)—Filed on January 22, 1990 by Roxanne Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 541 (**Shall the state and local tax levies on buildings be limited to a maximum of 50% of the current tax rate?**)—Filed on February 5, 1990 by Charles Caussey of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 542 (**Shall the reappraisal of real property for property tax purposes only occur when ownership changes or building construction is completed?**)—Filed on February 23, 1990 by Gary C. Hoyt of Vashon Island. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 543 (**Relating to state fiscal matters.**)—Filed on March 8, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 544 (**Relating to state fiscal matters.**)—Filed on March 8, 1990 by John H. Wright of Elma. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 545 (**Relating to comprehensive land use planning and economic development.**)—Filed on March 15, 1990 by David A. Bricklin of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 546 (**Relating to fiscal matters.**)—Filed on March 26, 1990 by Linda W. Matson of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 547 (**Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?**)—Filed on March 27, 1990 by Jeffrey D. Parsons of Seattle. 229,489 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 6, 1990 general election. It was defeated by the following vote: **For**—327,339; **Against**—986,505.
- INITIATIVE MEASURE NO. 548 (**Shall some state revenues be placed in reserve and 60% legislative approval required for new or increased general revenue taxes?**)—Filed on March 29, 1990 by Linda W. Matson of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 549 (**Shall state growth and environmental protection goals be implemented by measures including local comprehensive land use planning and development fees?**)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 550 (**Relating to managing growth and economic development.**)—Filed on March 29, 1990 by Theodore A. Mahr of Olympia. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 551 (**Shall changes be made relating to real property taxes, including valuing property by its purchase price and costs of improvements?**)—Filed on April 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 552 (**Shall limitations be placed on political campaign contributions and contributors, consecutive terms of office, publicly funded incumbent mailings, and honoraria?**)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. The measure was refiled as Initiative to the People No. 555.

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- INITIATIVE MEASURE NO. 553 (**Shall there be limitations on terms of office for Governor, Lieutenant Governor, state legislators and Washington state members of Congress?**)—Filed on January 9, 1991 by Gene J. Morain of Tacoma. 254,263 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1991 general election. It was defeated by the following vote: **For—690,828 Against—811,686.**
- INITIATIVE MEASURE NO. 554 (**Shall the display and distribution to minors of sexually explicit materials and performances be further restricted, and criminal defenses limited?**)—Filed on January 10, 1991 by Andrea K. Vangor of Kirkland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 555 (**Shall limits be placed on campaign contributions and contributors, consecutive terms of office, publicly funded incumbent mailings, gifts, and honoraria?**)—Filed on January 17, 1991 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 556 (**Shall the first \$1,000,000 of appraised value of residential property, and \$2,000,000 for farm residences, be exempt from property taxes?**)—Filed on January 8, 1991 by David S. Henshaw of Belfair. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 557 (**Shall campaign expenditures be limited to 50% of the elected office term salary and violations result in forfeiture of office?**)—Filed on January 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 558 (**Shall a limit, three consecutive terms or twelve consecutive years, be set for elected national, state, county, and municipal officers?**)—Filed on January 22, 1991 by Douglas N. Maynard of Sedro Woolley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 559 (**Shall property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?**)—Filed on January 23, 1991 by Marijcke Clapp of Seattle. 276,653 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1991 general election. It was defeated by the following vote: **For—592,391 Against—869,626.**
- INITIATIVE MEASURE NO. 560 (**Shall abortion laws be revised, restricting availability, requiring tests and reports, and prohibiting public funding unless necessary to save life?**)—Filed on January 17, 1991 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 561 (**Shall a transaction tax, not exceeding 1% be levied on money and property transfers, and present state taxes be repealed?**)—Filed on January 22, 1991 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 562 (**Shall a two-thirds vote of approval be required to impose new taxes, increase tax rates, or enlarge a tax base?**)—Filed on January 29, 1991 by Don E. Jewett of Langley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 563 (**Shall elected and appointed state legislative and executive branch officials be limited to serving a cumulative maximum of twelve years?**)—Filed on February 11, 1991 by Eric McAtee of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 564 (**Shall Washington residents elected to Congress have a lifetime limit of not more than twelve years of elected congressional service?**)—Filed on February 11, 1991 by Craig A. McMillan of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 565 (**Shall the state be required to include chiropractic services in the medical service assistance program available under the medicaid program?**)—Filed

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- on January 17, 1991 by Roxanne Lea Dubarry of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 566 (**Shall campaign spending, for offices subject to the state public disclosure act, be limited to the office term's total salary?**)—Filed on February 8, 1991 by Edward M. Duke of Gig Harbor. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 567 (**Shall it be unlawful after life is created by conception to intentionally hasten or cause death except for capital punishment?**)—Filed on February 25, 1991 by Mary L. Jarrard of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 568 (**Shall pit bull dog owners be required to register, confine, and insure the dogs and remove newborns from the state?**)—Filed on February 25, 1991 by Laurence C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 569 (**Shall Utilities and Transportation regulate some medical service rates, some political contributions be prohibited, and motorcycle helmet requirements be changed?**)—Filed on February 28, 1991 by Jack Zektzer of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 570 (**Shall the state dangerous dog act be amended to require hearings and restrict the regulatory authority of cities and counties?**)—Filed on March 4, 1991 by Cherie R. Graves of Newport. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 571 (**Shall contributions to state legislative and executive campaigns be limited; and may candidates agreeing to expenditure limitations receive matching funds?**)—Filed on May 15, 1991 by Calvin B. Anderson of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 572 (**Shall cannabis (marijuana) be legalized for adults; amnesty provided for prior cannabis convictions, tax imposed, and provide liquor hoard regulation?**)—Filed on May 15, 1991 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE NO. 573 (Shall candidates for certain offices, who have already served for specified time periods in those offices, be denied ballot access?)**—Filed on January 3, 1992 by Sherry Bockwinkel of Tacoma. 206,685 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 3, 1992 general election. It was approved by the following vote: **For—1,119,985 Against—1,018,260.**
- INITIATIVE MEASURE NO. 574 (**Shall a transaction tax, not exceeding 1%, be charged on property and money transfers; and state authorized taxes be repealed?**)—Filed on January 3, 1992 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 575 (**Shall sales and distribution of condoms be prohibited on public school property; and schools teach and encourage abstinence and monogamy?**)—Filed on January 9, 1992 by J. M. O'Sullivan of Sultan. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 576 (**Shall cannabis (marijuana) be taxed and legalized for adults; amnesty provided for prior cannabis convictions and cannabis testing be prohibited?**)—Filed on January 13, 1992 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 577 (**Shall horse racing statutes be amended including polygraph tests for jockeys, owners, trainers, ticket sellers, and prohibiting some betting combinations?**)—Filed on January 7, 1992 by Randy Baker of Tacoma. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 578 (**Shall the death penalty and the requirement that all female felons be committed to the women's correctional institution be abolished?**)—Filed on January 7, 1992 by Randy Baker of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 579 (**Shall pit bull dog owners be required to register, confine, and insure those dogs and remove newborns from the state?**)—Filed on January 21, 1992 by L. C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 580 (**Shall defendants in many court proceedings commenced by government have a right to jury trial with substantially expanded jury authority?**)—Filed on January 21, 1992 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 581 (**Shall cannabis be available by prescriptions and the Agriculture director regulate hemp growers and distribution of industrial grade cannabis?**)—Filed on January 22, 1992 by Bryan Estes of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 582 (**Shall political campaign contributions be limited and state and legislative candidates agreeing to campaign spending limits be permitted larger contributions?**)—Filed on January 23, 1992 by Margaret Colony of Bellevue. The sponsor submitted 151,601 signatures for checking and they were found insufficient to qualify the measure for the 1992 general election ballot.
- INITIATIVE MEASURE NO. 583 (**Shall the Legislature be directed to vote on whether Washington should request Congress to propose a balanced budget constitutional amendment?**)—Filed on February 4, 1992 by Dianne E. Campbell of Woodinville. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 584 (**Shall the requirements to use motorcycle helmets and seatbelts be repealed and bunters not be required to wear orange clothing?**)—Filed on February 27 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 585 (**Shall the 1990 and 1991 Growth Management Acts be repealed; and limits imposed on state and local government land controls?**)—Filed on February 27, 1992 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 586 (**Shall persons charged with drug crimes have their property seized and receive 50 year sentences; and needle exchange programs prohibited?**)—Filed on February 27, 1992 by Patrick M. Crawford of Littlerock. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 587 (**Relating to growth management.**)—Filed on March 17, 1992 by J. M. O'Sullivan of Sultan. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 588 (**Shall the 1990 and 1991 State Growth Management Acts, which provide requirements for local comprehensive land use planning, be repealed?**)—Filed on March 18, 1992 by J. M. O'Sullivan of Sultan. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 589 (**Shall spending limits, adjusted by inflation and population; revision of property values for tax purposes; and other changes be approved?**)—Filed on March 9, 1992 by Barbara M. Lindsay of Redmond. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 590 (**Shall criminals who are convicted of "most serious offenses" on three occasions be sentenced to life in prison without parole?**)—Filed on March 24, 1992 by John Carlson of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 591 (**Shall public officials and employees be civilly and criminally liable for loss of state trust land or trust asset values?**)—Filed on May 15, 1992 by Patrick A. Parrish of Trout Lake. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 592 (**Shall the State Auditor be required to audit all state trust lands and assets to determine if losses have occurred?**)—Filed on May 15, 1992 by Patrick A. Parrish of Trout Lake. Sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE NO. 593 (Shall criminals who are convicted of "most serious offenses" on three occasions be sentenced to life in prison without parole?)**—Filed on January 6, 1993 by Ida Ballasiotes of Mercer Island. 290,613 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 2, 1993 general election. It was approved by the following vote: **For**—1,135,521 **Against**—364,567.
- INITIATIVE MEASURE NO. 594 (**Shall all present state and local taxes be repealed, and replaced with a flat-rate tax system on transfers of property?**)—Filed on January 6, 1993 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 595 (**Shall the sale and use of cannabis (marijuana) be permitted and regulated in places where minors do not have access?**)—Filed on January 5, 1993 by Wayne H. Nelson of Renton. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 596 (**Shall State law be amended to permit persons to burn wood in homes at any time, regardless of air conditions?**)—Filed on January 19, 1993 by Ralph E. Miller of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 597 (**Shall a commission approved by the proponent be created to define goals and lawful conduct for elected and appointed officials?**)—Filed on January 25, 1993 by Forrest E. Owens of Burley. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 598 (**Shall alcohol sale be regulated to prohibit "happy hours" and limit the amount of alcohol served in any one drink?**)—Filed on February 19, 1993 by Brian Venable of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 599 (**Shall the state rate, review and compensate public and private education providers selected solely by the parents of school-age children?**)—Filed on February 19, 1993 by Craig L. Williams of Richland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 600 (**Shall candidates for state and federal office be limited to two consecutive terms, unless they win more terms by write-in?**)—Filed on February 19, 1993 by Craig L. Williams of Richland. Sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE NO. 601 (Shall state expenditures be limited by inflation rates and population growth, and taxes exceeding the limit be subject to referendum?)**—Filed on March 5, 1993 by Gregory J. Seifert of Vancouver. 249,707 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and submitted to the voters at the November 2, 1993 general election. It was approved by the following vote: **For**—774,342 **Against**—737,735.
- INITIATIVE MEASURE NO. 602 (**Shall state revenue collections and state expenditures be limited by a factor based on personal income, and certain revenue measures repealed?**)—Filed on March 3, 1993 by Margaret Johnson of Olympia. 440,160 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 2, 1993 general election. It was defeated by the following vote: **For**—673,378 **Against**—836,047.
- INITIATIVE MEASURE NO. 603 (**Shall persons under age 18 be required to maintain at least a 3.0 grade average to keep their driver's licenses?**)—Filed on February 26, 1993 by John C. Hawthorne of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 604 (**Shall attorneys be required to submit fee disputes to citizen settlement, and be restrained from running for certain public offices?**)—Filed on March 10, 1993 by Patrick M. Crawford of Olympia. Sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 605 (**Shall all present state and local taxes be repealed, and replaced with a flat rate tax on transfers of property?**)—Filed on January 10, 1994 by Clarence P. Keating of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 606 (**Shall laws on legislative lobbying, pensions, party caucuses, and campaigning be revised, and the legislature be subject to the public records and open meetings acts?**)—Filed on January 10, 1994 by Shawn Newman of Olympia. The sponsor failed to submit signatures for checking.
- *INITIATIVE MEASURE NO. 607 (Shall persons other than dentists be licensed to make and sell dentures to the public, as regulated by a new state board of denture technology?)**—Filed on January 10, 1994 by Vallan Charron of Puyallup. 241,228 signatures were submitted and found sufficient. The measure was subsequently certified and submitted to the voters at the November 8, 1994 general election. It was approved by the following vote: **For—955,960 Against—703,619.**
- INITIATIVE MEASURE NO. 608 (**Shall government be prohibited from according rights or protections based on sexual orientation, and schools from presenting homosexuality as acceptable?**)—Filed on January 10, 1994 by Gail L. Yenne of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 609 (**Shall campaign contributions be permitted only from voters, and new restrictions be placed on the use of campaign funds, and shall Initiative 134 be repealed?**)—Filed on January 12, 1994 by Robert E. Adams of Bellevue. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 610 (**Shall rights based on homosexuality, homosexuals' custody of their own or other children; and governmental approval of homosexuality be prohibited?**)—Filed on January 10, 1994 by Samuel P. Woodard, Sr. of Ariel. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 611 (**Shall informed consent for abortions be defined and required, a 24 hour waiting period imposed, and related criminal penalties created?**)—Filed on January 13, 1994 by Matthew W. Aamot of Bellingham. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 612 (**Relating to making Washington a multi-cultural state.**)—Filed on January 10, 1994 by Geoffrey Noah Vasil of Lacey. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 613 (**Shall persons other than minors be permitted to grow, sell, and use cannabis (marijuana) as licensed, taxed, and regulated by a new cannabis control board?**)—Filed on January 13, 1994 by Warren J. Nolze of Seattle. The sponsor refiled the measure as Initiative Measure No. 622.
- INITIATIVE MEASURE NO. 614 (**Shall one million dollars in state funds be set aside to pay for embryo transfers as an alternative to abortion?**)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 615 (**Shall lobbyists be required to obtain one million dollar licenses, and shall employees be entitled to leave for legislative testimony?**)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 616 (**Shall all persons be required to take a firearms safety course before purchasing firearms, or be subject to a penalty?**)—Filed on January 26, 1994 By David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 617 (**Shall fines be assessed on a sliding scale, based on the convicted person's income and the seriousness of the offense?**)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.

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- INITIATIVE MEASURE NO. 618 (Relating to school levies.)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 619 (Relating to amendments to legislative bills.)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The Attorney General declined to prepare a ballot title.
- INITIATIVE MEASURE NO. 620 (Shall vehicles no longer be required to have license tabs, and the gas tax be increased to replace lost revenue?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 621 (Shall all employees be entitled to increased hourly premium wages for work performed at night, or on Saturday or Sunday?)—Filed on January 26, 1994 by David S. Henshaw of Belfair. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 622 (Shall persons other than minors be permitted to grow and sell cannabis (marijuana) as regulated by a cannabis control board?)—Filed on February 11, 1994 by Warren J. Nolze of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 623 (Shall new limitations and conditions be placed on public assistance to families, and certain grandparents be obligated for child support?)—Filed on February 8, 1994 by David R. Mortenson of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 624 (Shall the business activity tax be reduced for certain businesses, and shall some businesses be exempted from paying this tax?)—Filed on February 18, 1994 by Corrie Bender of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 625 (Shall persons convicted of certain offenses be required to serve full sentences in total confinement, without possibility of early release?)—Filed on February 11, 1994 by Bruce Wilson McKay of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 626 (Shall regulation of private property be restricted, and certain reductions in value be newly defined as takings which require compensation?)—Filed on February 25, 1994 by Daniel Wayne Wood of Hoquiam. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 627 (Shall the licensing department implement a motorcycle awareness program, paid for by twenty percent of all existing motorcycle license fees?)—Filed on March 3, 1994 by Gary W. Lawson of Lacey. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 628 (Shall persons under eighteen be restricted in obtaining driver's licenses or employment, unless they keep a certain grade point average?)—Filed on February 23, 1994 by John C. Hawthorne of Olympia. This measure refiled as Initiative Measure No. 636.
- INITIATIVE MEASURE NO. 629 (Relating to public schools & youth violence prevention.)—Filed March 4, 1994 by Thomas G. Erickson of Seattle. This measure refiled as Initiative Measure No. 635.
- INITIATIVE MEASURE NO. 630 (Shall public officers and certain businesses be prohibited from harassing or discriminating against targets of the national security agency?)—Filed on March 15, 1994 by Elizabeth Patrick of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 631 (Shall the use of state, county, city, or town funds to fund the national security agency be prohibited?)—Filed on March 15, 1994 by Elizabeth Patrick of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 632 (Shall laws concerning possession of firearms, juvenile court jurisdiction, and sentences for drive-by shootings and certain other crimes be revised?)—

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- Filed on March 30, 1994 by James L. King, Jr. of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 633 (**Shall juvenile justice and child labor laws be revised, and juvenile programs funded with revenue from specified fees and taxes?**)—Filed on March 30, 1994 by James L. King, Jr. of Tacoma. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 634 (**Shall state agency commercial activity, rulemaking, staffing, contracting, and lobbying be limited, and \$100 million appropriated for prisons and safety?**)—Filed on March 30, 1994 by Linda A. Smith of Vancouver. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 635 (**Shall the establishment of public charter schools to serve at-risk youth be authorized, and \$250 million appropriated for this program?**)—Filed on March 30, 1994 by Thomas G. Erickson of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 636 (**Shall minors be limited to a conditional drivers' license, and shall minors with good grades be permitted to work more hours?**)—Filed on April 6, 1994 by John C. Hawthorne of Olympia. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 637 (**Shall state laws on property ownership, property tax collection, and vehicle licensing be revised and vehicle excise taxes be removed?**)—Filed on May 12, 1994 by David Nibarger of Spokane. The sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 638 (**Shall a transaction tax, not exceeding 1%, be charged on property and money transfers; and state authorized taxes be repealed?**)—Filed on January 9, 1995 by Clarence P. Keating of Seattle.
- INITIATIVE MEASURE NO. 639 (**Shall the state be required to establish state-operated facilities for care of all children who are abandoned, abused, or neglected?**)—Filed on January 9, 1995 by Jim D. Whittenburg of Olympia.
- INITIATIVE MEASURE NO. 640 (**Shall state fishing regulations ensure certain survival rates for untargeted catch, and commercial and recreational fisheries be prioritized?**)—Filed on January 9, 1995 by Frank Haw of Olympia.
- INITIATIVE MEASURE NO. 641 (**Relating to Philadelphia II.**)—Filed on January 9, 1995 by Robert B. Adkins of Tacoma.
- INITIATIVE MEASURE NO. 642 (**Shall school district voters be authorized to adopt deregulated systems of education delivery, and state education appropriations fixed by formula?**)—Filed on January 9, 1995 by James & Fawn Spady of Seattle.
- INITIATIVE MEASURE NO. 643 (**Relating to property taxes.**)—Filed on January 9, 1995 by Donald Carter of Olympia. This measure refiled as Initiative Measure No. 650.
- INITIATIVE MEASURE NO. 644 (**Shall government be prohibited from placing children for adoption or foster care with any homosexuals or with cohabiting unmarried partners?**)—Filed on January 9, 1995 by Samuel P. Woodard, Sr. of Ariel.
- INITIATIVE MEASURE NO. 645 (**Shall most laws regulating firearms be repealed, including laws relating to concealed pistols, machine guns, and short-barreled rifles or shotguns?**)—Filed on January 9, 1995 by Samuel P. Woodard, Sr. of Ariel.
- INITIATIVE MEASURE NO. 646 (**Shall the state property tax levy for schools be reduced in stages over three years, and then eliminated?**)—Filed on January 20, 1995 by Jim D. Whittenburg of Seattle.
- INITIATIVE MEASURE NO. 647 (**Shall the members of the state utilities and transportation commission be elected, and their regulatory responsibilities extended to new fields?**)—Filed on January 11, 1995 by Carl Sperr of Spokane.

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- INITIATIVE MEASURE NO. 648 (Shall laws be revised concerning state citizenship, property ownership, travel rights, competency certificates, taxation, licenses, public officers, courts, and legislation?)—Filed on January 23, 1995 by David L. Nibarger of Spokane.
- INITIATIVE MEASURE NO. 649 (Shall most of the 1993 Health Care Act be repealed, and replaced with insurance modifications and health care savings accounts?)—Filed on January 19, 1995 by Jerome A. Blome of Kent.
- INITIATIVE MEASURE NO. 650 (Shall taxes on property used as the owner's principal residence be limited, and property assessment be based on "adjusted value"?)—Filed on February 10, 1995 by Donald Carter of Olympia.
- INITIATIVE MEASURE NO. 651 (Shall the state enter into compacts with Indian tribes providing for unrestricted gambling on Indian lands within the state's borders?)—Filed on February 28, 1995 by John Kieffer of Fruitland.
- INITIATIVE MEASURE NO. 652 (Shall juveniles aged thirteen or more charged with crime while in the possession of a weapon be tried as adults?)—Filed on March 10, 1995 by Richard E. Woodrow of Lynnwood.
- INITIATIVE MEASURE NO. 653 (Shall public school, health care and assistance officials report "apparent illegal aliens" to INS and deny them education and services?)—Filed on April 7, 1995 by Karen E. Small of LaConner.
- INITIATIVE MEASURE NO. 654 (Shall government be prohibited from placing children for adoption or foster care with any "person who practices right-wing fundamentalist Christianity"?)—Filed on June 1, 1995 by William S. Humphrey of Seattle.
- *INITIATIVE MEASURE NO. 655 (Shall it be a gross misdemeanor to take, hunt, or attract black bears with bait, or to hunt bears, cougars, hohcat or lynx with dogs?)—Filed on January 5, 1996 by Joseph F. Scott of Seattle. 228,148 signatures were submitted and found sufficient. The measure was subsequently certified and submitted to the voters at the November 5, 1996 general election. It was approved by the following vote: For—1,387,577 Against—815,385.**
- INITIATIVE MEASURE NO. 656 (Shall pit bull dogs be defined as "potentially dangerous," and subjected to strict requirements for registration, secure enclosures, leashes, collars, warning signs, bonds, and vaccinations?)—Filed on January 5, 1996 by Laurence C. Mathews of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 657 (Shall taxes on property used as the owner's principal residence be limited, state taxes on such properties be eliminated, and assessment based on "adjusted value"?)—Filed on January 5, 1996 by Donald W. Carter of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 658 (Shall an office of state inspector general be created to investigate complaints of malfeasance or abuse by government agencies and business licensees?)—Filed on January 5, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 659 (Shall the use of gill nets and certain other net fishing gear be prohibited, and release of accidentally caught out-of-season fish be required?)—Filed on January 17, 1996 by Robert I. Keating of Freeland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 660 (Shall the state and its counties, cities and towns be prohibited from appropriating any funds to support the national security agency of the federal government?)—Filed on January 8, 1996 by Elizabeth Patrick of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 661 (Shall the state of Washington restrict the activities of the national security agency, and certain officers be barred from engaging in national

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- security agency activities?)—Filed on January 8, 1996 by Elizabeth Patrick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 662 (Shall an office of state inspector general be created, with certain administrative and investigative powers, headed by a director appointed for a nonrenewable five-year term?)—Filed on February 12, 1996 by Maximus T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 663 (Shall the industrial, medicinal, and personal use of hemp (cannabis or marijuana) be permitted under some conditions, taxed, and regulated by the liquor control board?)—Filed on January 30, 1996 by Thomas A. Rohan of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 664 (Shall the state repeal all existing state taxes, and levy instead a 1% tax on all transfers of property and a temporary 1% property tax?)—Filed on February 16, 1996 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 665 (Shall government agencies be required to make disclosures about laws, to respond to requests for clarification, and to prove constitutionality if the law is questioned?)—Filed on February 12, 1996 by Peter M. Brennan of Vancouver. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 666 (Relating to fishing)—Filed on February 22, 1996 by Robert I. Keating of Freeland. Measure was refiled as Initiative Measure No. 668.
- INITIATIVE MEASURE NO. 667 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be gradually reduced?)—Filed on February 20, 1996 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 668 (Shall the use of gill nets be prohibited, and release be required of out-of-season fish or juvenile chinook salmon under 22 inches long?)—Filed on February 27, 1996 by Robert I. Keating of Freeland. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 669 (Shall governments be forbidden to grant any protection or recognize rights based on sexual orientation, and shall schools be prohibited from presenting homosexuality as acceptable?)—Filed on February 28, 1996 by Mark Roshak of Bothell. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 670 (Shall the secretary of state be instructed to place a ballot notice concerning congressional and legislative candidates who have not supported Congressional term limits?)—Filed on April 1, 1996 by Charles G. Moore of Redmond. 232,522 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1996 general election. It was rejected by the following vote: **For**—937,873 **Against**—1,146,865.
- INITIATIVE MEASURE NO. 671 (Shall amended tribal/state agreements be authorized permitting limited electronic gaming on Indian lands for tribal government purposes, with joint regulation and specified use of revenues?)—Filed on April 11, 1996 by Doreen M. Maloney of Mount Vernon. 290,996 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 5, 1996 general election. It was rejected by the following vote: **For**—934,344 **Against**—1,222,492.
- INITIATIVE MEASURE NO. 672 (Shall grandparents be entitled to petition for visitation rights with their grandchildren, in dissolution, separation and custody proceedings?)—Filed on April 22, 1996 by Donna J. Honeycutt of Kennewick. Sponsor failed to submit signatures for checking.
- INITIATIVE MEASURE NO. 673 (Shall health insurance plans be regulated as to provision of services by designated health care providers, managed care provision, and disclosure of

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certain plan information?)—Filed on January 8, 1997 by Stephen E. Wehrly of Vashon. 241,508 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 4, 1997 general election. It was rejected by the following vote: **For**—521,161 **Against**—1,087,903.

INITIATIVE MEASURE NO. 674 (Shall state spending on schools, colleges, and libraries be exempt from the state expenditure cap and revenue increase restrictions established in Initiative 601?)—Filed on January 14, 1997 by Jasper MacSarrow of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 675 (Shall property values for tax purposes be rebased to their 1992 levels, and new limitations be imposed on increases in property value and taxes imposed?)—Filed on January 28, 1997 by Donald Carter of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 676 (Shall the transfer of handguns without trigger-locking devices be prohibited and persons possessing or acquiring a handgun be required to obtain a handgun safety license?)—Filed on February 3, 1997 by Thomas C. Wales of Seattle. 239,805 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 4, 1997 general election. It was rejected by the following vote: **For**—496,690 **Against**—1,194,004.

INITIATIVE MEASURE NO. 677 (Shall discrimination based on sexual orientation be prohibited in employment, employment agency, and union membership practices, without requiring employee partner benefits or preferential treatment?)—Filed on February 11, 1997 by Suzanne J. Thomas of Seattle. 229,793 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 4, 1997 general election. It was rejected by the following vote: **For**—666,073 **Against**—985,169.

INITIATIVE MEASURE NO. 678 (Shall dental hygienists who obtain a special license endorsement be permitted to perform designated dental hygiene services without the supervision of a licensed dentist?)—Filed on February 10, 1997 by Anita R. Munson of Bellingham. 272,764 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 4, 1997 general election. It was rejected by the following vote: **For**—787,607 **Against**—883,488.

INITIATIVE MEASURE NO. 679 (Relating to property taxes)—Filed on February 3, 1997 by Winton G. Cannon of Bellevue. Measure was refiled as Initiative No. 681.

INITIATIVE MEASURE NO. 680 (Relating to vehicle excise taxes)—Filed on February 3, 1997 by Winton G. Cannon of Bellevue. Measure was refiled as Initiative No. 682.

INITIATIVE MEASURE NO. 681 (Shall property taxes be assessed and valued as of the 1989 assessment, property be assessed at 80 percent of value, and levy requirements be changed?)—Filed on March 5, 1997 by Winton G. Cannon of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 682 (Shall current motor vehicle fees and vehicle excise taxes be repealed, and replaced with a new license and fee system based on four defined categories?)—Filed on March 5, 1997 by Winton G. Cannon of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 683 (Shall violent drug-related and drug possession penalties be revised, medical use of Schedule 1 controlled substances be permitted, and a drug prevention commission be established?)—Filed on March 5, 1997 by Robert K. Killian of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 684 (Shall the retail sales tax be increased by one-half of one percent, with the increased revenue earmarked for fish and wildlife enhancement and

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education?)—Filed on March 19, 1997 by Stanley R Reed of Oak Harbor. Sponsor failed to submit signatures for checking.

INITIATIVE MEASURE NO. 685 (Shall penalties for drug possession and drug-related violent crime be revised, medical use of Schedule I controlled substances be permitted, and a drug prevention commission established?)—Filed on April 4, 1997 by Robert K. Killian of Seattle. 245,193 signatures were submitted and found sufficient. The measure was subsequently certified to the ballot and was submitted to the voters at the November 4, 1997 general election. It was rejected by the following vote: **For—659,244 Against—1,006,964.**

INITIATIVE MEASURE NO. 686 (Shall courts be barred from ordering any divorced parents to pay support for the post-secondary education of their dependent children over eighteen years of age?)—Filed on January 5, 1998 by Robert J. Hoyden of Seattle. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 687 (Shall property values for tax purposes be re-based to their 1992 levels, and new limitations be imposed on increases in property value and taxes imposed?)—Filed on January 13, 1998 by Donald W. Carter of Olympia. No signature petitions were presented for checking.

***INITIATIVE MEASURE NO. 688 (Shall the state minimum wage be increased from \$4.90 to \$5.70 in 1999 and to \$6.50 in 2000, and afterwards be annually adjusted for inflation?)**—Filed on January 13, 1998 by Rick S. Bender of Bothell. 288,357 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 3, 1998 general election and approved by the following vote: **For—1,259,470 Against—644,764.**

INITIATIVE MEASURE NO. 689 (Shall property taxes be assessed and valued as of the 1989 assessment, property be assessed at 80 percent of value, and levy requirements be changed?)—Filed on January 13, 1998 by Winton G. Cannon of Bellevue. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 690 (Shall current motor vehicle fees and vehicle excise taxes be repealed, and replaced with a new license and fee system based on five defined categories?)—Filed on January 13, 1998 by Winton G. Cannon of Bellevue. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 691 (Shall motor vehicle excise taxes be cut in half for 1999, repealed beginning 2000, and the legislature and governor directed to address the revenue impact?)—Filed on February 26, 1998 by Timothy Eyman of Seattle. No signature petitions were presented for checking.

***INITIATIVE MEASURE NO. 692 (Shall the medical use of marijuana for certain terminal or debilitating conditions be permitted, and physicians authorized to advise patients about medical use of marijuana?)**—Filed on February 26, 1998 by Robert K. Killian of Seattle. 260,335 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 3, 1998 general election and approved by the following vote: **For—1,121,851 Against—780,631.**

INITIATIVE MEASURE NO. 693 (Shall the state government and cities, towns, and counties be prohibited from using any money to fund the national security agency of the federal government?)—Filed on February 24, 1998 by Elizabeth Patrick of Spokane. No signature petitions were presented for checking.

INITIATIVE MEASURE NO. 694 (Shall the termination of a fetus' life during the process of birth be a felony crime except when necessary to prevent the pregnant woman's death?)—Filed on March 31, 1998 by Robert V. Bethel of Poulso. 216,716 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 3, 1998 general election and rejected by the following vote: **For—802,376 Against—1,070,360.**

***INITIATIVE MEASURE NO. 695 (Shall voter approval be required for any tax increase, license and fees be \$30 per year for motor vehicles, and existing vehicle taxes be**

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repealed?)—Filed on January 4, 1999 by Tim D. Eyman of Mukilteo. 514,141 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 2, 1999 general election and approved by the following vote: **For—992,715 Against—775,054.**

INITIATIVE MEASURE NO. 696 (Shall commercial net, troll, and trawl fishing be prohibited in Washington state fresh and marine waters, except tribal fisheries conducted under a valid treaty right?)—Filed on January 4, 1999 by Thomas E. Nelson of Seattle. 234,750 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 2, 1999 general election and rejected by the following vote: **For—682,380 Against—1,044,872.**

INITIATIVE MEASURE NO. 697 (Shall existing vehicle taxes and licensing fees be repealed, and replaced with annual fees of \$10 to \$150, depending on weight, length, and vehicle type?)—Filed on January 7, 1999 by Winton G. Cannon of Redmond. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 698 (Shall property tax laws be revised including: rollback to 1990 valuation levels; valuation at 80% of true value; and 60% voter approval required for changes?)—Filed on January 7, 1999 by Winton G. Cannon of Redmond. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 699 (Shall state property tax rates be reduced and local real estate sales taxes be revised, with limitations on local government development impact fees and conditions?)—Filed on January 4, 1999 by Michael N. Matson of Tumwater. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 700 (Shall counties with a population of less than fifteen thousand be authorized to license or permit electronic gaming devices, including slot machines?)—Filed on January 5, 1999 by Linda L. Tatlow of Republic. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 701 (Shall the people of Washington censure those members of the Washington state congressional delegation who voted for articles of impeachment against President William Jefferson Clinton?)—Filed on January 22, 1999 by Stephen T. Parkinson of Fall City. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 702 (Shall labor organizations operating in this state be required to include certain provisions in their constitutions concerning rights of members, election procedures, and officer accountability?)—Filed on January 28, 1999 by Jamie B. Newman of Seattle. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 703 (Shall the state apply to Congress to convene a federal constitutional convention to consider an amendment allowing referendums on federal legislative, executive, and judicial acts?)—Filed on February 12, 1999 by William R. Walker of Auburn. The initiative was withdrawn by the sponsor.

INITIATIVE MEASURE NO. 704 (Shall all ground water development for domestic use, and all well drilling with the consent of the landowner, be exempt from government regulation and tax?)—Filed on March 15, 1999 by Henry R. Stephenson of Colville. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 705 (Shall liquor taxes be repealed, except the existing \$.07 per liter sales tax on spirits and a new tax of \$2.00 per pure alcohol liter?)—Filed on March 3, 1999 by Rachel Hawkrige of Kirkland. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 706 (Shall the existing system of state-owned liquor stores be abolished, and shall liquor be sold by private businesses regulated by the state liquor control board?)—Filed on April 8, 1999 by Rachel Hawkrige of Kirkland. No signature petitions presented for checking.

INITIATIVE MEASURE NO. 707 (Shall the state investment board be directed not to make investments that benefit the federal reserve system, unless either of two stated conditions

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- is met?)—Filed on March 15, 1999 by Michael T. Bell of Lake Forest Park. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 708 (Shall public school teachers, other school district employees, and community and technical college faculty receive a cost-of-living salary increase each year, to begin in 2001?)—Filed on April 8, 1999 by Lee Ann Prielipp of Federal Way. The initiative was withdrawn by the sponsor.
- INITIATIVE MEASURE NO. 709 (Shall unemployment benefits be extended to employees who are separated from employment due to lockouts commencing on or after January 1, 1999, with certain exceptions?)—Filed on May 6, 1999 by James Andrew McPhee of Spokane. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 710 (Shall certain 1999 tax and fee increases be nullified, vehicles exempted from property taxes, and property valuations and property tax increases for each jurisdiction limited?)—Filed on January 7, 2000 by Tim D. Eyman of Mukilteo, Leo J. Fagan of Spokane, and Ray D. Benham of Kennewick. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 711 (Shall all transportation funds, including transit taxes, be spent 90% for roads; transportation agency performance audits required; carpool lanes eliminated; and road materials be tax-exempt?)—Filed on January 7, 2000 by Tim D. Eyman of Mukilteo, Leo J. Fagan of Spokane, and Ray D. Benham of Kennewick. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 712 (Shall the state property tax levy be reduced and taxes on real estate sales be dedicated to specified purposes, with additional limitations on development fees?)—Filed on January 7, 2000 by Michael N. Matson of Tumwater. No signature petitions presented for checking.
- *INITIATIVE MEASURE NO. 713 (Shall it be a gross misdemeanor to capture an animal with certain body-gripping traps, or to poison an animal with sodium fluoroacetate or sodium cyanide?)—Filed on January 7, 2000 by Lisa A. Wathne of Seattle. 261,268 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and approved by the following vote: **For**—1,315,903 **Against**—1,093,587.
- INITIATIVE MEASURE NO. 714 (Shall smoking be prohibited in casinos, bars, taverns, bowling alleys, and all public buildings, except tobacco shops?)—Filed on January 7, 2000 by Tod A. Green of Moses Lake. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 715 (Shall citizens be permitted to place small memorials upon the public right-of-way where a death has occurred as a result of a motor vehicle accident?)—Filed on January 7, 2000 by Anthony G. Blount of North Bend. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 716 (Shall the state establish a health plan open to all residents, with deficits subsidized by health and stop-loss insurers, additional insurer liability and disclosure requirements?)—Filed on January 10, 2000 by Raleigh K. Stitt of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 717 (Shall the state property tax levy be reduced by 15% and then phased out, additional levy limits be imposed, and certain homeowner tax deferrals provided?)—Filed on January 7, 2000 by Gerald D. Schaefer of Aberdeen. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 718 (Shall property taxes be assessed at the 1990 rates, levy increases (except improvements) require a 60% vote, and property be taxed at 80% of value?)—Filed on January 11, 2000 by Winton G. Cannon of Bellevue. No signature petitions presented for checking.

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- INITIATIVE MEASURE NO. 719 (Shall a pension management board of 14 members be established to set retirement system contribution rates, appoint the state actuary, and review pension policy issues?)—Filed on January 7, 2000 by Stanley J. Bianchi, Jr. of Blaine. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 720 (Shall retail stores over one hundred thousand square feet in area be restricted to not more than fifteen thousand square feet of nontaxable merchandise?)—Filed on January 7, 2000 by Kevin Raymond Galik of Spokane. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 721 (Shall new or expanded retail stores be restricted to no more than ninety thousand square feet in area, except with a vote of the people?)—Filed on January 7, 2000 by Kevin Raymond Galik of Spokane. No signature petitions presented for checking.
- *INITIATIVE MEASURE NO. 722 (Shall certain 1999 tax and fee increases be nullified, vehicles exempted from property taxes, and property tax increases (except new construction) limited to 2% annually?)—Filed on January 28, 2000 by Tim D. Eyman of Mukilteo, Leo J. Fagan of Spokane, and Ray D. Benham of Kennewick. 272,678 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and approved by the following vote: For—1,295,391 Against—1,022,349.**
- INITIATIVE MEASURE NO. 723 (Shall the state property tax levy be reduced, revenues in excess of the state expenditure limit be redirected, and local government levy authority be revised?)—Filed on January 12, 2000 by Jeffrey C. Sullivan of Yakima. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 724 (Shall the state property tax levy be eliminated, property assessed at 50% of value and taxed at \$5.90 per \$1000, and revaluation laws be repealed?)—Filed on February 8, 2000 by Don Carter of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 725 (Shall a state health agency be created and develop a health benefits package for state residents, funded by mandatory premiums, employer assessments, and existing taxes?)—Filed on February 1, 2000 by Stuart J. Bramhall of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 726 (Shall a list be compiled of automobiles and trucks with irritating daytime running lights, and a fee be imposed on motor vehicles with such lights?)—Filed on February 1, 2000 by J. H. Vandermeer of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 727 (Shall the legislature be directed to enact legislation calling for a federal Constitutional Convention to consider a proposed amendment establishing a national initiative and referendum?)—Filed on February 11, 2000 by Richard Lee Moore of Underwood. No signature petitions presented for checking.
- *INITIATIVE MEASURE NO. 728 (Shall school districts reduce class sizes, extend learning programs, expand teacher training, and construct facilities, funded by lottery proceeds, existing property taxes, and budget reserves?)—Filed on February 8, 2000 by Lisa D. Macfarlane of Seattle. 297,199 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and approved by the following vote: For—1,714,485 Against—675,635.**
- INITIATIVE MEASURE NO. 729 (Shall school districts and public universities be authorized to sponsor charter public schools, independently operated, open to all students, and subject to revised state regulation?)—Filed on February 23, 2000 by James R. Spady of Seattle. 306,361 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and rejected by the following vote: For—1,125,766 Against—1,211,390.

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- INITIATIVE MEASURE NO. 730 (Shall financial institutions and insurance companies be required to protect consumer privacy through restrictions on obtaining and transferring personal information unless the consumer consents?)—Filed on March 16, 2000 by Brian J. Sullivan of Tacoma. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 731 (Shall the legislature be instructed to convene and to adopt a budget for 1999-2001 that reduces all state expenditures by approximately 2.5%?)—Filed on March 9, 2000 by John J. McMillen of Everett. No signature petitions presented for checking.
- *INITIATIVE MEASURE NO. 732 (Shall public school teachers, other school district employees, and certain employees of community and technical colleges receive annual cost-of-living salary adjustments, to begin in 2001-2002?)—Filed on March 14, 2000 by Lee Ann Prielipp of Federal Way. 298,722 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and approved by the following vote: **For**—1,501,261 **Against**—893,601.
- INITIATIVE MEASURE NO. 733 (Shall the privacy of personal information be protected through restrictions on collection, use, and disclosure by businesses, with additional protection for financial and medical information?)—Filed on March 15, 2000 by J. R. Baker of Bainbridge Island. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 734 (Shall a property tax exemption be provided for real property used as a principal place of residence for persons 61 years of age or older?)—Filed on March 24, 2000 by George F. McRoberts, Jr. of Bothell. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 735 (Shall the privacy of personal information be protected through restrictions on collection, use, and disclosure by businesses, with additional protection for financial and medical information?)—Filed on April 14, 2000 by J. R. Baker of Bainbridge Island. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 736 (Shall the national security agency be prohibited from performing certain business in the state of Washington?)—Filed on March 27, 2000 by Elizabeth Patrick of Spokane. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 737 (Shall the state and counties, cities, and towns be prohibited from funding the national security agency of the federal government?)—Filed on March 27, 2000 by Elizabeth Patrick of Spokane. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 738 (Shall 90% of transportation funds, including transit taxes, be spent for roads; transportation agency performance audits required; and road construction and maintenance be sales tax-exempt?)—Filed on April 18, 2000 by Suzanne D. Karr of Everett. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 739 (Shall persons convicted of possessing drugs for personal use be sentenced to treatment rather than imprisonment, and personal marijuana possession penalties reduced to civil infractions?)—Filed on April 19, 2000 by Jeffrey T. Haley of Seattle. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 740 (Shall the law require that growing trees on publicly owned lands be forever preserved in order to supply oxygen?)—Filed on April 19, 2000 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 741 (Shall the requirement that a person be licensed to practice law before representing others in court or holding certain public offices be eliminated?)—Filed on April 19, 2000 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 742 (Shall the internal revenue service be instructed to comply with federal and state law and to obtain court orders before taking property in this

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- state?)—Filed on April 19, 2000 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 743 (**Shall courts of limited jurisdiction be declared not to have the power to impose fines or imprison any person?**)—Filed on April 19, 2000 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 744 (**Shall the Revised Code of Washington, the Washington Administrative Code, and all municipal ordinances be declared void and inapplicable to flesh and blood people?**)—Filed on April 19, 2000 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE MEASURE NO. 745 (**Shall 90% of transportation funds, including transit taxes, be spent for roads; transportation agency performance audits required; and road construction and maintenance be sales tax-exempt?**)—Filed on May 3, 2000 by Tim D. Eyman of Mukilteo. 274,490 signatures were filed and found sufficient. The measure was submitted to the voters at the November 7, 2000 general election and rejected by the following vote: **For**—955,329 **Against**—1,394,387.
- INITIATIVE MEASURE NO. 746 (**Shall persons convicted of possessing drugs for personal use be sentenced to treatment rather than imprisonment, and personal marijuana possession penalties reduced to civil infractions?**)—Filed on May 19, 2000 by Jeffrey T. Haley of Seattle. No signature petitions presented for checking.
- *INITIATIVE TO THE LEGISLATURE NO. 747 (Statement of the Subject: Initiative Measure No. 747 concerns limiting property tax increases. Concise Description: This measure would require state and local governments to limit property tax levy increases to 1% per year, unless an increase greater than this limit is approved by the voters at an election.)**—Filed on January 8, 2001 by Tim Eyman of Mukilteo, Leo Fagan of Spokane, Ray Benham of Kennewick, and M. J. Fagan of Spokane. 290,704 signatures were filed and found sufficient. This measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: **For**— 826,258 **Against**—609,266.
- INITIATIVE TO THE LEGISLATURE NO. 748 (**Statement of the Subject: Initiative Measure No. 748 concerns rent increases on residential rental structures or sites. Concise Description: This measure would allow cities and counties to regulate rent increases on residential buildings by requiring notice of increases, prohibiting retaliatory increases, or prohibiting increases on property not meeting health codes.**)—Filed on January 10, 2001 by Gregory Gadow of Seattle. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 749 (**Statement of the Subject: Initiative Measure No. 749 concerns the manner electing certain state and federal officers. Concise Description: This measure would provide that United States Senators and most statewide elected officers would be elected by a system of electoral votes, which would be distributed among the counties, based on county population.**)—Filed on January 9, 2001 by Richard Newby of College Place. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 750 (**Statement of the Subject: Initiative Measure No. 750 concerns the manner in which United States presidential electors are awarded. Concise Description: This measure would provide that presidential electors would be awarded in proportion to the number of counties in the state in which each candidate has received a majority of the votes.**)—Filed on January 9, 2001 by Richard Newby of College Place. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 751 (**Statement of the Subject: Initiative Measure No. 751 concerns the primary system for election of public officers. Concise Description: This measure would adopt a blanket primary allowing voters to choose among official party candidates, party-affiliated candidates, and independent candidates for each partisan office. If courts invalidated this system, an alternative is specified.**)—Filed on January 8, 2001 by Terry Hunt of Coulee City. No signature petitions presented for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 752 (Statement of the Subject: Initiative Measure No. 752 concerns the state expenditure limit. Concise Description: This measure would amend the state's expenditure limit. Separate limits would apply to all state accounts that are subject to allotment control, with certain exceptions. Procedures would be established for adjusting these limits.)—Filed on January 16, 2001 by Chad Taylor of Chehalis. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 753 (Statement of the Subject: Initiative Measure No. 753 concerns lands managed by the department of natural resources. Concise Description: This measure would require the department of natural resources to open lands, roads, and gates managed by the department to all people for all uses, including travel by foot, horseback and motor vehicle.)—Filed on January 23, 2001 by Ivan Rolig of Bremerton. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 754 (Statement of the Subject: Initiative Measure No. 754 concerns laws applied to "flesh and blood people". Concise Description: This measure would provide that the Revised Code of Washington, the Washington Administrative Code, and all municipal ordinances are not applicable to "flesh and blood people".)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 755 (Statement of the Subject: Initiative Measure No. 755 concerns the public disclosure act. Concise Description: This measure would direct courts to impose a one hundred dollar per day penalty when an agency acting in bad faith denies a person inspection or copying of a public record.)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 756 (Statement of the Subject: Initiative Measure No. 756 concerns limiting federal jurisdiction. Concise Description: This measure would purport to limit federal laws to the District of Columbia, territories such as Guam, and navigable waters, and provide that federal laws do not apply within the State of Washington.)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 757 (Statement of the Subject: Initiative Measure No. 757 concerns the internal revenue service. Concise Description: This measure would purport to require the internal revenue service to comply with state and federal laws and constitutional provisions, including proceeding in state superior court prior to executing federal tax liens.)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 758 (Statement of the Subject: Initiative Measure No. 758 contracts creating private monopolies. Concise Description: This measure would declare all contracts creating private monopolies of public resources to be void and unconstitutional, and allow for a thousand dollar per day fine against persons attempting to enforce such contracts.)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 759 (Statement of the Subject: Initiative Measure No. 759 concerns the state bar association and attorney licensing. Concise Description: This measure would declare the state bar association unconstitutional, provide that the department of licensing would test and license attorneys, and alter laws concerning attorney discipline.)—Filed on January 8, 2001 by Kurt Weinreich of Olympia. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 760 (Statement of the Subject: Initiative Measure No. 760 concerns causes of action for violations of state civil rights. Concise Description: This measure would authorize lawsuits and attorney fees against any person who, acting under color of state or local law, violates rights secured by the state Constitution or by

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any state laws.)—Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 761 (Statement of the Subject: Initiative Measure No. 761 concerns liability for restricting the use of private real property. Concise Description: This measure would require state and local governments to pay compensation and attorney fees if a law or government act restricted the use of privately owned real property and reduced its market value.)—Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 762 (Statement of the Subject: Initiative Measure No. 762 concerns restricting the civil forfeiture of property. Concise Description: This measure would generally prohibit the forfeiture of property (other than "contraband") unless the owner had been convicted of a crime and the property was clearly instrumental in committing or facilitating the crime.)—Filed on January 8, 2001 by Richard Shepard of Tacoma. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 763 (Statement of the Subject: Initiative Measure No. 763 concerns preservation of the blanket primary. Concise Description: This measure would declare that the people oppose action by the political parties to replace the blanket primary, and would nullify any legislative act abolishing the blanket primary.)—Filed on January 25, 2001 by William Pilkey of Olympia. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 764 (Statement of the Subject: Initiative Measure No. 764 concerns privatizing the children's administration of DSHS. Concise Description: This measure would dissolve the children's administration in the department of social and health services. Child protective services would be transferred to the state patrol, and other functions handled by private agencies.)—Filed on January 16, 2001 by Jeffery Douglas of Orting. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 765 (Statement of the Subject: Initiative Measure No. 765 concerns property taxes. Concise Description: This measure would eliminate state property tax and laws governing property revaluation and levy limits. Real estate would be assessed at 50% of true value (or less) and taxed at \$5.90 per \$1000.)—Filed on February 1, 2001 by Donald Carter of Olympia. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 766 (Statement of the Subject: Initiative Measure No. 766 concerns regulation of marijuana. Concise Description: This measure would legalize and regulate the cultivation, sale, and use of marijuana. A sales tax would be imposed. Use by minors would be prohibited. Amnesty would be extended to past offenders.)—Filed on January 24, 2001 by Ross M. Hallett of Port Angeles. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 767 (Relating to clean water. Initiative Measure No. 767 was withdrawn and refiled as Initiative Measure No. 769 before a ballot title was assigned.)—Filed on February 7, 2001 by Daniel J. Silver of Olympia.

INITIATIVE TO THE LEGISLATURE NO. 768 (Statement of the Subject: Initiative Measure No. 768 concerns union membership. Concise Description: This measure would make it unlawful to condition employment on union membership or nonmembership. Contracts allowing retention of union dues or assessments from employee compensation would be void, absent the employee's written consent.)—Filed on February 5, 2001 by Muhammad Farrakhan of Seattle. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 769 (Statement of the Subject: Initiative Measure No. 769 concerns financing water quality projects with general obligation bonds. Concise Description: This measure would provide \$1 billion in bonds for drinking water, wastewater treatment, water conservation, and riparian habitat and streamflow improvements. One-tenth of 1% additional sales tax would be imposed until bond

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retirement.)—Filed on February 23, 2001 by Daniel J. Silver of Olympia. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 770 (Statement of the Subject: Initiative Measure No. 770 concerns voter approval of 'significant alterations' to high capacity transportation projects. Concise Description: This measure would require voter approval of "significant alterations" to voter-approved propositions for regional high capacity transportation systems. As defined, "significant alterations" include certain cost increases, delays, and elimination of project elements.)—Filed on February 6, 2001 by Christopher Clifford of Renton. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 771 (Statement of the Subject: Initiative Measure No. 771 concerns punishment for the murder of a child. Concise Description: This measure would make first degree murder of a child under 13 aggravated first degree murder, and would impose life imprisonment without parole for first degree murder of a child under 16.)—Filed on March 2, 2001 by Ann F. Stone of Spokane. No signature petitions presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 772 (Statement of the Subject: Initiative Measure No. 772 concerns at-large election of state legislators. Concise Description: This measure would establish 33 representative districts and 11 senate districts, each electing 3 legislators. The top 6 primary candidates would qualify for the general election, where the top 3 would be elected.)—Filed on March 8, 2001 by Michael A. Johnson of Cheney. No signature petitions presented for checking.

***INITIATIVE TO THE LEGISLATURE NO. 773 (Statement of the Subject: Initiative Measure No. 773 concerns additional tobacco taxes for low-income health programs and other programs. Concise Description: This measure would impose an additional sales tax on cigarettes and a surtax on wholesaled tobacco products. The proceeds would be earmarked for existing programs and expanded health care services for low-income persons.)—Filed on March 26, 2001 by Astrid Berg of Seattle. 275,081 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: For—948,529 Against—486,912.**

INITIATIVE TO THE LEGISLATURE NO. 774 (Statement of the Subject: Initiative Measure No. 774 concerns long-term in-home care services. Concise Description: This measure would create a "home care quality authority" to establish qualifications, standards, training, referral, workers compensation, and employment relations for publicly funded individual providers of in-home care to elderly and disabled adults.)—Filed on April 6, 2001 by Lars Hennem of Seattle, Deana Knutsen of Lynnwood, and Katrinka Gentile of Shoreline. No signature petitions were presented for checking.

***INITIATIVE TO THE LEGISLATURE NO. 775 (Statement of the Subject: Initiative Measure No. 775 concerns long-term in-home care services. Concise Description: This measure would create a "home care quality authority" to establish qualifications, standards, accountability, training, referral and employment relations for publicly funded individual providers of in-home services to elderly and disabled adults.)—Filed on April 6, 2001 by Lars Hennem of Seattle, Deana Knutsen of Lynnwood, and Katrinka Gentile of Shoreline. 304,327 signatures were submitted and found sufficient. The measure was submitted to the voters at the November 6, 2001 general election and approved by the following vote: For—880,523 Against—522,848.**

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- *INITIATIVE TO THE LEGISLATURE NO. 1 (District Power Measure)**—Filed October 25, 1928. The 1929 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 4, 1930 state general election. Measure was approved into law by the following vote: **For**—152,487 **Against**—130,901. The act is now identified as Chapter 1, Laws of 1931.
- INITIATIVE TO THE LEGISLATURE NO. 1A (**Brewers' Hotel Bill**)—Filed December 14, 1914. The 1915 Legislature failed to take action, and as provided by the state constitution the measure then was submitted to the voters for final decision at the November 7, 1916 state general election. Measure was defeated by the following vote: **For**—48,354 **Against**—263,390.
- *INITIATIVE TO THE LEGISLATURE NO. 2 (Blanket Primary Ballot)**—Filed August 21, 1934. Passed by the Legislature February 21, 1935. Now identified as Chapter 26, Laws of 1935.
- INITIATIVE TO THE LEGISLATURE NO. 3 (**Tax Free Homes**)—Filed August 25, 1934. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 4 (**Unemployment Insurance**)—Filed September 5, 1934. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 5 (**Prohibiting Fishing with Purse Seines**)—Filed November 20, 1934. Insufficient number of signatures on petition; failed.
- INITIATIVE TO THE LEGISLATURE NO. 6 (**Legal Holiday on Saturday**)—Filed August 17, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 7 (**Pension for Blind**)—Filed October 7, 1938. Refiled as Initiative to the Legislature No. 8.
- INITIATIVE TO THE LEGISLATURE NO. 8 (**Pension for Blind**)—Filed October 10, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 9 (**Relating to Intoxicating Liquors**)—Filed December 8, 1938. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 10 (**Unicameral Legislature**)—Filed May 23, 1940. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 11 (**Reapportionment of State Legislative Districts**)—Filed July 8, 1942. No petition filed.
- *INITIATIVE TO THE LEGISLATURE NO. 12 (Public Power Resources)**—Filed August 29, 1942. Passed by the Legislature February 17, 1943. Now identified as Chapter 15, Laws of 1943. Act invalidated through Referendum Measure No. 25.
- INITIATIVE TO THE LEGISLATURE NO. 13 (**Restricting Sales of Beer and Wine to State Liquor Stores**)—This measure is the same as Initiative Measure No. 163 and was filed August 23, 1946. Signature petitions filed January 3, 1947. The 1947 Legislature failed to take action as provided by the state constitution the measure then was submitted to the voters for final decision at the November 2, 1948 state general election. Measure was defeated by the following vote: **For**—208,337 **Against**—602,141.
- INITIATIVE TO THE LEGISLATURE NO. 14 (**Reapportionment of State Legislative Districts**)—Filed September 19, 1946. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 15 (**Establishing a Civil Service System for the Employees of the State of Washington**)—Filed October 16, 1946. No petition filed.
- INITIATIVE TO THE LEGISLATURE NO. 16 (**Providing for the Election of State Game Commissioners**)—Filed September 8, 1948. No signature petitions presented.
- INITIATIVE TO THE LEGISLATURE NO. 17 (**Regulating Legislative Committee Hearings**)—Filed October 16, 1948. No signature petitions filed.

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- INITIATIVE TO THE LEGISLATURE NO. 18 (**Petitioning Congress to declare that it is the policy of the United States to live in peaceful coexistence with other nations, etc.**)—This measure is the same as Initiative Measure No. 183 and was filed September 3, 1952. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 19 (**Repealing the Subversive Activities Act**)—Filed September 19, 1952. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 20 (**Legislative and Congressional Districting**)—Filed April 16, 1954. Sponsors dissatisfied with ballot title and, as a consequence, measure (with some minor changes, all occurring in section 5) was refiled as of May 17, 1954 and measure refiled as Initiative No. 22 to the Legislature.
- INITIATIVE TO THE LEGISLATURE NO. 21 (**Professional Practice Boards**)—Filed April 20, 1954. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 22 (**Legislative and Congressional Districting**)—Filed May 17, 1954. No signature petitions presented for checking.
- *INITIATIVE TO THE LEGISLATURE NO. 23 (Civil Service for Sheriff's Employees)**—Measure filed August 7, 1956. Signature petitions filed December 5, 1956, and found sufficient. The 1957 Legislature failed to take action, and as provided by the state constitution the measure was then submitted to the voters for final decision at the November 4, 1958 state general election. Measure was approved by the following vote: **For—539,640 Against—289,575**. Act is now identified as Chapter 1, Laws of 1959.
- INITIATIVE TO THE LEGISLATURE NO. 24 (**Limiting Dams in Fish Sanctuaries**)—Measure filed September 18, 1956. Signature petitions containing approximately 85,600 signatures filed January 3, 1957. However, attorney general ruled that provisions of the 30th amendment to the state constitution approved by the voters at the 1956 state general election applied at the time signatures were presented. This amendment provided that the number of signatures necessary to validate an initiative must be equal to at least 8% of the votes cast on the position of governor at the last preceding gubernatorial election. This computation set the necessary number as 90,319 valid signatures. Sponsors appealed to the State Supreme Court which held that the attorney general was correct. For this reason the Secretary of State did not check signature petitions and the initiative was not certified to the 1957 Legislature.
- *INITIATIVE TO THE LEGISLATURE NO. 25 (Dam Construction and Water Diversion)**—Measure filed April 3, 1958. Signature petitions filed January 2, 1959 and upon completion of canvass found sufficient. The 1959 Legislature failed to take final action and as provided by the state constitution the measure was submitted to the voters for final decision at the November 8, 1960 state general election. Measure was approved by the following vote: **For—526,130 Against—483,449**. Act is now identified as Chapter 4, Laws of 1961.
- INITIATIVE TO THE LEGISLATURE NO. 26 (**Aholishing Capital Punishment**)—Measure filed March 10, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 27 (**Restricting Federal Taxation and Activities**)—Measure filed June 27, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 28 (**Civil Service for County Employees**)—Measure filed July 1, 1960. No signature petitions presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 29 (**Repealing Certain 1961 Tax Laws**)—Filed March 27, 1962 by the Citizens' Tax Revolt Group. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.
- INITIATIVE TO THE LEGISLATURE NO. 30 (**Reorganization of State Fisheries Department**)—Filed May 28, 1962 by the Washington State Sportsmen's Council. Campaign for supporting signatures was not successful and, as a consequence, no signature petition sheets were filed for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 31 (Laws Regulating Courts—Judges—Attorneys)**—Filed May 17, 1966 by Walter H. Philipp of Seattle. This was, in effect, a refile of Initiative Measure No. 232 and again no signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 32 (Local Processing of State Timber)**—Filed May 31, 1966 by the Committee for Full Employment in Washington. Signatures (136,181) filed December 30, 1966 and found sufficient. The 1967 Legislature failed to take final action and, as provided by the state constitution, the measure was submitted to the voters for final decision at the November 5, 1968 state general election. Measure was rejected by the following vote: **For—450,559 Against—716,291.**
- INITIATIVE TO THE LEGISLATURE NO. 33 (No caption written)**—Filed July 1, 1966 by George A. Guilmet of Edmonds. This was a proposed memorial to Congress concerning "the ending of the war now being waged by the United States Government and its armed forces in Vietnam and Southeast Asia." However, the office of the attorney general reversed its position in that a similar measure was filed in 1952 (Initiative to the Legislature No. 18) and declined to issue a ballot title on the grounds that the subject matter was not a proper subject to fall within the scope of the initiative procedure. As a consequence, the secretary of state returned the measure and filing fee to the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 34 ("Personal Effects" Tax Exemption)**—Filed March 20, 1968 by the Committee Against Unfair Personal Property Tax. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 35 (State Citizens—War and Taxes)**—Filed April 28, 1970 by the Seattle Liberation Front—William Edward Kononen, Initiative Circulation Chairman. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 36 (Licensing Dog Racing—Parimutuel Betting)**—Filed July 3, 1970 by Donald Nicholson of Kirkland. Because of technical errors, measure was refiled August 18, 1970 as Initiative to the Legislature No. 39.
- INITIATIVE TO THE LEGISLATURE NO. 37. (Transportation Revenues—Use and Distribution)**—Filed July 9, 1970 by William L. McCord and William L. Harrington, Co-sponsors. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 38 (Certain Cities—Greyhound Racing Franchises)**—Filed July 31, 1970 by Herbert B. Shannon of Medina. Signatures (121,077) filed December 31, 1970. Checking revealed insufficient valid signatures submitted and the initiative was not certified to the 1971 Legislature.
- INITIATIVE TO THE LEGISLATURE NO. 39 (Licensing Dog Racing—Parimutuel Betting)**—Filed August 18, 1970 by Donald Nicholson and Dr. Lawrence Pirkle, Co-sponsors. Signatures (124,394) filed December 31, 1970. Checking revealed insufficient valid signatures submitted and the initiative was not certified to the 1971 Legislature.
- INITIATIVE TO THE LEGISLATURE NO. 40 (Litter Control Act)**—Filed August 20, 1970 by the Washington Committee to Stop Litter—Irving B. Stimpson, Secretary. Signatures (141,228) filed December 30, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The Legislature took no action insofar as Initiative Measure No. 40 but did pass an alternative measure No. 40B now identified as Chapter 307, Laws of 1971 1st Extraordinary Session, which contained an emergency clause and became effective law upon approval of the Governor on May 21, 1971. However, as required by the state constitution, both measures were submitted to the voters for final decision at the November 7, 1972 state general election. The votes cast on the original measure and the alternative proposal were as follows:

For Either	Against Both	Prefer No. 40	Prefer No. 40B
788,151	418,764	194,128	798,931

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As a consequence, Alternative Measure No. 40B prevailed which sustained Chapter 307, Laws of 1971 1st Extraordinary Session, as law.

INITIATIVE TO THE LEGISLATURE NO. 41 (**Public Schools—Certain Courses Curtailed**)—Filed September 4, 1970 by the Schools Belong to You Committee of the State of Washington—Dale R. Dorman, Chairman. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 42—Filed September 21, 1970 by the Washington Environmental Council. Refiled September 25, 1970 as Initiative to the Legislature No. 43.

INITIATIVE TO THE LEGISLATURE NO. 43 (**Regulating Shoreline Use and Development**)—Filed September 25, 1970 by the Washington Environmental Council. Signatures (160,421) filed December 31, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The legislature took no action insofar as Initiative No. 43 but did pass an alternative measure No. 43B now identified as Chapter 286, Laws of 1971 1st Extraordinary Session, which became effective law as of June 1, 1971. However, as required by the state constitution both measures were submitted to the November 7, 1972 state general election. The votes cast on the original measure and the alternative proposal were as follows:

For Either	Against Both	Prefer No. 40	Prefer No. 40B
603,167	551,132	285,721	611,748

As a consequence, Alternative Measure No. 43B prevailed which sustained Chapter 286, Laws of 1971 1st Extraordinary Session, as law.

***INITIATIVE TO THE LEGISLATURE NO. 44 (Statutory Tax Limitation—20 Mills)**—Filed October 15, 1970 by the 40-Mill Tax Limit Committee—Lester P. Jenkins, Secretary. Signatures (229,785) filed December 30, 1970 and found sufficient and the measure was certified to the Legislature as of January 29, 1971. The Legislature took no action and, as provided by the state constitution, the initiative was submitted to the voters for final decision at the November 7, 1972 state general election and approved by the following vote: **For—930,275 Against—301,238.** Act is now identified as Chapter 2, Laws of 1973.

INITIATIVE TO THE LEGISLATURE NO. 45 (**Restoration of Law Prohibiting Hitchhiking**)—Filed July 10, 1972 by Mildred C. Trantow, President, Washington State Chapter of Pro America. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 46 (**Restricting School District Excess Levies**)—Filed July 25, 1972 by Representative Paul Barden and Representative Vaughn Hubbard, Co-sponsors. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 47 (**Shall public schools be prohibited from teaching either the theory of evolution or that of creation unless both are taught?**)—Filed April 3, 1974 by Ward E. Ellsworth. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 48 (**Shall state financial support for public schools be greatly increased for 1975-77 and school district excess levies restricted after 1975?**)—Filed April 9, 1974 by the Committee for State School Support. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 49 (**Shall an initiative be adopted declaring persons ineligible for election to given state offices for more than 12 consecutive years?**)—Filed July 5, 1974 by Senator Peter von Reichbauer. No signatures presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 50 (**Shall greyhound dog racing, with parimutuel betting, be permitted when licensed by a state commission and subject to its control?**)—Filed July 16, 1974 by Donald Nicholson. No signatures presented for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 51 (**Constitutional Amendment—Qualifications of Legislators**)—Filed March 11, 1976 by Harley H. Hoppe of Mercer Island. Attorney General declined to prepare ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 52 (**Shall commercial fishing for or taking of food fish, crab or shrimp in Hood Canal be prohibited?**)—Filed April 15, 1976 by J.L. Parsons of Union, WA. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 53 (**Shall special levies be limited, and additional state support provided to most districts which approve such limited levies?**)—Filed April 21, 1976 by Representative Phyllis K. Erickson of Tacoma. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 54 (**Shall an initiative be adopted prohibiting bolding most state offices longer than twelve years and judicial offices past age 70?**)—Filed April 28, 1976 by Jack Metcalf of Langley, WA. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 55 (**Shall persons convicted of certain felonies be imprisoned for a mandatory period of years?**)—Filed May 7, 1976 by Senator Kent Pullen of Kent, WA. Re filed as Initiative to the Legislature No. 56.
- INITIATIVE TO THE LEGISLATURE NO. 56 (**Shall persons convicted of most felonies be imprisoned for a mandatory period of years?**)—Filed June 1, 1976 by Senator Kent Pullen of Kent, WA. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 57 (**Shall an initiative be adopted providing that special legislative sessions, however convened, be limited to thirty days and specific subjects?**)—Filed July 14, 1976 by Senator Harry Lewis of Olympia. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 58 (**Shall an initiative be adopted memorializing the legislature to impeach and remove King County Superior Court Judge Solie M. Ringold?**)—Filed July 14, 1976 by Paul O. Snyder of Seattle. No petition submitted.
- *INITIATIVE TO THE LEGISLATURE NO. 59 (**Shall new appropriations of public water for nonpublic agricultural irrigation be limited to farms of 2,000 acres or less?**)—Filed August 16, 1976 by Ray Hill of Seattle. Signatures (191,012) submitted and found sufficient and measure was certified to the legislature January 14, 1977. The legislature referred this measure to the 1977 state general election ballot. At the November 8, 1977 general election the measure was approved by the following vote: **For—457,054 Against—437,682**. Act is now identified as Chapter 3, Laws of 1979.
- INITIATIVE TO THE LEGISLATURE NO. 60 (**Shall an initiative be adopted authorizing a legislator to convene a grand jury to consider allegations of improper judicial conduct?**)—Filed March 28, 1978 by Mr. Gerald P. Hanson of Maple Valley. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 61 (**Shall a system requiring a minimum five cent refund on sales of beer, malt and carbonated beverage containers be established?**)—Filed May 1, 1978 by Mr. Steve Zemke of Seattle. Signatures (164,325) submitted and a random sample of 8,180 was taken and found sufficient and measure was certified to the Legislature on February 19, 1979. The legislature referred this measure to the 1979 state general election ballot. At the November 6, 1979 general election the measure was rejected. The preliminary figures for the vote are: **For—333,062 Against—427,822**.
- *INITIATIVE TO THE LEGISLATURE NO. 62 (**Shall state tax revenues be limited so that increases do not exceed the growth rate of total state personal income?**)—Filed June 1, 1978 by Ron Dunlap and Ellen Craswell of the Washington Tax Limitation Committee. Signatures (169,456) submitted and found sufficient and measure was certified to the legislature on January 18, 1979. The legislature referred this measure to the 1979 state general election ballot. At the November 6, 1979 general election the measure was approved. The preliminary figures for the vote are: **For—509,349 Against—235,431**. Act is now identified as Chapter 1, Laws of 1980.

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- INITIATIVE TO THE LEGISLATURE NO. 63 (**Shall participation in the state militia and law enforcement units not be denied to persons by reason of physical handicaps?**)—Filed June 28, 1978 by Mr. Daniel M. Jones of Olympia. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 64—Attorney General refused to write a ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 65 (**Shall state school levies be subject to the same six percent annual increase limit as other regular property tax levies?**)—Filed July 12, 1978 by Mr. Ron Dunlap and Mrs. Ellen Craswell. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 66 (**Shall the Consumer Protection Act be amended to provide trebled actual damages in private actions and define specific unlawful acts?**)—Filed July 14, 1978 by Mr. Norman L. Bachert of Seattle. No signatures were brought in for checking.
- INITIATIVE TO THE LEGISLATURE NO. 67 (**Shall an initiative be adopted providing for the recall of United States senators and representatives during legislatively called special elections?**)—Filed July 27, 1978 by Mr. Victor J. Bonagofski of Centralia. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 68 (**Shall property tax assessments be based on 1976 values, with certain exceptions and assessment increases limited to 2% per year?**)—Filed July 21, 1978 by Mr. Bruce Gould of Vancouver. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 69 (**Shall single family dwellings and farm buildings be tax exempt, and state and local taxing and borrowing powers be restricted?**)—Filed July 26, 1978 by Mr. Gerald P. Hanson of Maple Valley. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 70 (**Shall the rates of state sales and business taxes temporarily be reduced 22.2% and 25% respectively during the year 1980?**)—Filed August 11, 1978 by Mr. Paul Sanders of Bellevue. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 71 (**Shall property taxes be based on 1976 values limited to 2% annual increases, and other property tax changes be enacted?**)—Filed August 16, 1978 by Mr. J. Van Self of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 72 (**Shall state school levies be limited to 6% annual increases and disabled retirees or elderly property tax exemptions be increased?**)—Filed November 20, 1978 by Mr. Claude Oliver of Kennewick. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 73 (**Shall Government Agencies, Employees, and Private Individuals be Prohibited from Promoting Certain Sexual Practices, and the Age of Consent Raised?**)—Filed May 13, 1980 by David Estes of Seattle. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 74 (**Shall There be Mandatory Minimum Prison Sentences for Certain Felonies, Expanded Concealed Weapons' Permits and State Preemption of Firearms' Regulation?**)—Filed July 31, 1980 by Kent Pullen of Kent, WA. No signatures presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 75 (**Shall the Crime Victims Compensation Act be extended to crimes committed after July 1, 1981, and its coverage be broadened?**)—Filed September 4, 1981 by Manuel E. Costa of Marysville. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 76 (**Shall the legislature petition Congress to amend the Constitution, or call a constitutional convention, to require a balanced federal budget?**)—Filed March 12, 1982 by Harry Erwin Truitt of Seattle. No signatures were presented for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 77 (**Shall public employee compensation be reduced or frozen if state expenditures exceed revenues or new taxes are imposed or authorized?**)—Filed March 22, 1982 by Glenn Blubaugh of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 78 (**Shall the present state owned and operated liquor distribution system be abolished and replaced with licensed privately owned liquor dealers?**)—Filed May 27, 1982 by Robert J. Corcoran of Puyallup. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 79 (**Shall employers have the option, effective July 1, 1984, of securing private insurance to meet the state requirements for workmen's compensation?**)—Filed September 29, 1982 by Richard M. Farrow of Seattle. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 80 (**Unemployment Insurance**)—Filed September 29, 1982 by Richard C. King of Seattle. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 81 (**Political Contributions**)—Filed September 29, 1982 by R. M. (Dick) Bond of Spokane. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 82 (**Public Purchasing**)—Filed September 29, 1982 by Priscilla K. Stockner of Puyallup. Initiative withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 83 (**Shall the 1983-85 state general operating budget be limited by statute to a maximum of 109% of the 1981-83 budget?**)—Filed September 29, 1982 by Charles I. McClure of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 84 (**Shall state policies regarding natural resource management, Indian rights, federal court decisions, and the expenditure of state funds be enacted?**)—Filed May 13, 1983 by John B. Mitchum of Mt. Vernon. Sponsors have until December 31, 1983 to submit signatures.
- INITIATIVE TO THE LEGISLATURE NO. 85 (**Shall the legislature be directed to petition Congress to call a convention to propose a balanced federal budget constitutional amendment?**)—Filed June 7, 1983 by James R. Medley of Seattle. Sponsors have until December 31, 1983 to submit signatures.
- INITIATIVE TO THE LEGISLATURE NO. 86 (**Shall the legislature submit a state constitutional amendment requiring taxes be approved by voters and full funding of retirement systems?**)—Filed August 17, 1984 by James L. King, Jr. of Tacoma. No signatures were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 87 (**Shall juvenile diversion agreements require some or nonsecurity residency or placement in secure facilities if a juvenile thereafter runs away?**)—Filed October 19, 1984 by Theresa J. Green of Seattle. No signatures were submitted for checking.
- INITIATIVE TO THE LEGISLATURE NO. 88 (**Shall candidates for legislative and state executive offices be prohibited from receiving more than specified maximum campaign contributions and loans?**)—Filed March 25, 1985 by Roger J. Douglas of Olympia. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 89. (**Shall the legislature submit a constitutional amendment requiring voter approval of new taxes and full funding of state retirement systems?**)—Filed June 20, 1985 by James L. King, Jr. of Tacoma. No signatures were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 90. (**Shall sales and use taxes be increased, 1/8th of 1%, to fund comprehensive fish and wildlife conservation and recreation programs?**)—Filed July 22, 1985 by John C. McGlenn of Seattle. 211,299 signatures were submitted and found sufficient and the measure was certified to the legislature on January 24, 1986. The

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legislature referred this measure to the 1986 general election ballot. At the November 4, 1986 general election the measure was defeated by the following vote: **For**—493,794. **Against**—784,382.

INITIATIVE TO THE LEGISLATURE NO. 91. (Shall the state administered workers industrial insurance compensation system be modified and employers be granted the option of privately insuring?)—Filed August 9, 1985 by Donald D. Eldridge of Olympia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 92. (Shall it be a consumer protection violation for doctors treating Medicare eligible patients to charge more than Medicare's reasonable charges?)—Filed March 31, 1986 by Lars Hennum of Seattle. 219,716 signatures were submitted and were found sufficient and the measure was certified to the legislature on January 15, 1987.

INITIATIVE TO THE LEGISLATURE NO. 93 (Shall courts be authorized to require that convicted felons after release from prison be subject to restrictions and state supervision?)—Filed May 5, 1986 by Stuart A. Halsan of Centralia. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 94 (Shall conviction for possessing more than five ounces of, or selling, "dangerous drugs" result in at least five years imprisonment?)—Filed August 22, 1986 by Clyde Ballard of East Wenatchee. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 95 (Shall denturists be licensed, dental hygienists' activities be expanded, and both be permitted to function without supervision of a dentist?)—Filed on April 17, 1987 by Kenneth S. MacPherson of Redmond. No signatures were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 96 (Cleanup of Toxic Waste)—Filed on July 16, 1987 by David A. Bricklin of Seattle. Initiative refiled as Initiative 97.

***INITIATIVE TO THE LEGISLATURE NO. 97 (Shall a hazardous waste cleanup program, partially funded by a 7/10 of 1% tax on hazardous substances, be enacted?)**—Filed on August 13, 1987 by Christine Platt of Olympia. 215,505 signatures were submitted and were found sufficient. The measure was certified to the legislature on February 8, 1988. The act is now identified as Chapter 2, Laws of 1989.

INITIATIVE TO THE LEGISLATURE NO. 98 (Shall conversations concerning controlled drugs be recordable with one party's consent and limited court use of unauthorized recordings be permitted?)—Filed on April 1, 1988 by Frank Kanekoa of Olympia. Sponsor failed to submit signatures for checking.

***INITIATIVE TO THE LEGISLATURE NO. 99 (Shall a state presidential preference primary election determine each presidential candidate's percentage of delegates to major party national conventions?)**—Filed on April 24, 1988 by Ross E. Davis of Seattle and Joe E. Murphy of Seattle. 202,872 signatures were submitted and found sufficient. The measure was certified to the legislature on February 6, 1989 and was passed by the legislature on March 31, 1989. The act is now identified as Chapter 4, Laws of 1989.

INITIATIVE TO THE LEGISLATURE NO. 100 (Shall private property rights be a compelling state interest restricting eminent domain, state agreements with governments, and some agency rules?)—Filed on April 11, 1988 by Neil Amondson of Centralia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 101 (Shall mandatory minimum jail sentences be required for some drug offenses including possessing materials or equipment to illegally manufacture drugs?)—Filed on May 5, 1988 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 102 (Shall the state support of children and family services, including some education programs, be increased by \$360,000,000 in new

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taxes?)—Filed on June 24, 1988 by Jon LeVeque of Seattle. 217,143 signatures were submitted and found sufficient. The measure was certified to the Legislature on January 20, 1989. The legislature referred the measure to the 1989 general election ballot. At the November 7, 1989 general election the measure was defeated by the following vote: **For—349,357 Against—688,782.**

INITIATIVE TO THE LEGISLATURE NO. 103 (**Shall rent increases in mobile home parks be prohibited until June 30, 1990 and thereafter increases would require a state board's approval?**)—Filed on July 8, 1988 by Shirley J. Johnson of Everett. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 104 (**Shall proposed thermal power plants be required to demonstrate that their operation will not increase carbon dioxide in the atmosphere?**)—Filed on August 22, 1988 by Allen W. Hayward of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 105 (**Regarding attorneys as members of the Legislature**)—Filed on July 20, 1988 by Eugene Goosman of Seattle. Attorney General refused to write ballot title on the grounds that the initiative proposed to amend the Constitution.

INITIATIVE TO THE LEGISLATURE NO. 106 (**Shall the state issue tax obligation bonds and use the proceeds for consumer grants, state projects, reinvestment and bond expenses?**)—Filed on August 23, 1988 by Steven A. Tracy of Longview. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 107 (**Shall new limitations be imposed upon the adoption of state and local rules and ordinances restricting property rights of landowners?**)—Filed on September 12, 1988 by Ellen Pickell of Hoquiam and Neil Amondson of Centralia. Sponsors failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 108 (**Shall a toll bridge connecting Bainbridge Island to land east of Bremerton be financed by \$22,000,000 and general obligation bonds?**)—Filed on September 29, 1988 by T. H. Tees of Bremerton. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 109 (**Shall women considering abortion be advised by the physician of their opportunity to receive certain information about abortion and alternatives?**)—Filed on April 19, 1989 by Mike Padden of Spokane. 153,619 signatures were submitted and were found insufficient to qualify the measure for the state general election ballot.

INITIATIVE TO THE LEGISLATURE NO. 110 (**Regarding a mandatory sentence for the manufacture or sale of narcotics.**)—Filed on April 3, 1989 by James Linderman, Sr. of Yacolt. Sponsor abandoned this initiative and refiled it as Initiative to the Legislature No. 111.

INITIATIVE TO THE LEGISLATURE NO. 111 (**Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?**)—Filed on May 10, 1989 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 112 (**Shall the state regulate oil refiners' prices, rates, services and practices dealing with, or charged to, retail motor fuel outlets?**)—Filed on May 25, 1989 by Timothy Hamilton of McCleary. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 113 (**Shall certain drug offenses have mandatory jail sentences, other drug sentences increased, and penalties paid to local jurisdiction drug funds?**)—Filed on June 23, 1989 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 114 (**Regarding the hurning or defacing of the American flag.**)—Filed on June 30, 1989 by Carl R. Barbee of Seattle. The Attorney General declined to write a ballot title.
- INITIATIVE TO THE LEGISLATURE NO. 115 (**Shall the state and local tax rates on commercial and residential buildings and new construction be rednced at least 50%?**)—Filed on July 11, 1989 by Charles Caussey of Spokane. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 116 (**Shall child support laws be revised, including a disregarding of parents' income in fixing a schedule for child support payments?**)—Filed on August 21, 1989 by William Harrington of Lynnwood. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 117 (**Sball political contributions be limited regarding amount, timing and residency of contributors, and elected officials restricted on mailings and honoraria?**)—Filed on September 12, 1989 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 118 (**Shall state and local tax rates, fees and charges be reduced to January 1, 1990 rates, and increases require 60% voter approval?**)—Filed on March 14, 1990 by Judith Anderson of Bush Prairie. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 119 (**Shall adult patients who are in a medically terminal condition be permitted to request and receive from a physician aid-in-dying?**)—Filed on March 14, 1990 by Bradley K. Robinson of Seattle. 218,327 signatures were submitted and found sufficient. The measure was certified to the legislature on February 8, 1991. The legislature referred the measure to the 1991 general election ballot. At the November 5, 1991 general election the measure was defeated by the following vote: **For—701,808 Against—810,623.**
- *INITIATIVE TO THE LEGISLATURE NO. 120 (Shall state abortion laws be revised, including declaring a woman's right to choose physician performed abortion prior to fetal viability?)**—Filed on April 2, 1990 by Lee Minto of Seattle. 242,004 signatures were submitted and found sufficient. The measure was certified to the legislature on February 8, 1991. The legislature referred the measure to the 1991 general election ballot. At the November 5, 1991 general election the measure was approved by the following vote: **For—756,812 Against—752,590.**
- INITIATIVE TO THE LEGISLATURE NO. 121 (**Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?**)—Filed on April 17, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 122 (**Shall jurors be advised they could consider the merits of laws and the wisdom of applying laws to a defendaut?**)—Filed on April 19, 1990 by Richard Shepard of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 123 (**Shall constitutional impact statements be required before adopting or implementing governmental policies which effect a taking or deprivation of property?**)—Filed on May 11, 1990 by Merrill H. English of Dayton. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 124 (**Shall changes he made relating to real property taxes, including valuing property as its purchase price and any improvement costs?**)—Filed on May 30, 1990 by Karl Thun of Graham. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 125 (**Shall private vehicles be required to purchase automobile insurance from a newly created state administrated program, and**

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- \$200,000,000 be appropriated?**—Filed on August 1, 1990 by Edward G. Patton of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 126 (**Small political contributions be limited regarding amount, timing, and contributor's voting residence and elected officials mailings and honoraria be restricted?**)—Filed on August 9, 1990 by Robert E. Adams of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 127 (**Shall property value for tax purposes be, the January 1, 1985 value or subsequent sales price, with future cost of living adjustments?**)—Filed on August 14, 1990 by Marijcke V. Clapp of Seattle. The initiative was refiled as Initiative to the Legislature No. 129.
- INITIATIVE TO THE LEGISLATURE NO. 128 (**Shall mandatory minimum jail sentences and fines be required for certain drug offenses and other drug maximum sentences be increased?**)—Filed on August 21, 1990 by James K. Linderman of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 129 (**Small property value for tax purposes be the January 1, 1985 value or subsequent sales price, adjusted for cost of living changes?**)—Filed on September 12, 1990 by Marijcke V. Clapp of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 130 (**Shall real property be assessed at 70% of true and fair value and increases in property tax rates be limited?**)—Filed on August 29, 1990 by Pam Roach of Auburn. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 131 (**Shall mandatory minimum prison sentences and fines be required for certain drug offenses and some maximum drug sentences be increased?**)—Filed on March 18, 1991 by James K. Linderman, Sr. of Yacolt. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 132 (**Shall no strike pledges be required in all teaching contracts at state-supported institutions of learning and violations cause employment terminations?**)—Filed on April 16, 1991 by Glenn L. Blubaugh of Tacoma. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 133 (**Shall there be restrictions on contributions to legislators, state officials, and candidates, and on other campaign related activities and financing?**)—Filed on April 29, 1991 by Arthur Wuerth of Olympia. Sponsor failed to submit signatures for checking.
- *INITIATIVE TO THE LEGISLATURE NO. 134 (Shall campaign contributions be limited; public funding of state and local campaigns be prohibited; and campaign related activities be restricted?)**—Filed on June 7, 1991 by Carl R. Erickson of Olympia. 227,060 signatures were submitted and found sufficient. The measure was certified to the legislature on January 29, 1992. The legislature referred the measure to the 1992 general election ballot. At the November 3, 1992 general election the measure was approved by the following vote: **For—1,549,297 Against—576,161.**
- INITIATIVE TO THE LEGISLATURE NO. 135 (**Shall a transaction tax, not exceeding 1%, levied on the transfers of money and property replace present state authorized taxes?**)—Filed on June 24, 1991 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 136 (**Shall cannabis (marijuana) be legalized for adults and taxed; amnesty provided for prior cannabis convictions, and cannabis testing be prohibited?**)—Filed on June 24, 1991 by Kevin Clark Keyes of Bellingham. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 137 (**Shall inmates with indeterminative sentences change to determinative sentences, and sentences which are outside the standard**

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- sentencing range be reviewed?)—Filed on August 7, 1991 by Carrie D. Roth of Kent. This measure was refiled as Initiative to the Legislature No. 139.
- INITIATIVE TO THE LEGISLATURE NO. 138 (Shall private vehicles be required to have automobile insurance purchased from a new state administrated program, and \$200,000,000 be appropriated?)—Filed on August 12, 1991 by Ed G. Patton of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 139 (Shall the criminal sentences for offenses committed prior to July 1, 1984 be changed; and the Indeterminate Sentencing Review Board be abolished?)—Filed on October 29, 1991 by Carrie D. Roth of Kent. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 140 (Shall the Legislature be directed to vote on whether Washington should request Congress to propose a balanced budget constitutional amendment?)—Filed on April 29, 1992 by Dianne E. Campbell of Woodinville. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 141 (Shall a cost controlled health benefits system, publicly and privately financed, as designed by the Governor, cover all state residents?)—Filed on June 11, 1992 by Dennis Braddock of Bellingham. The sponsor submitted 159,308 signatures for checking and they were found insufficient to qualify the measure to be submitted to the 1993 legislature.
- INITIATIVE TO THE LEGISLATURE NO. 142 (Shall circumcision of a minor without the minor's consent be a crime and a civil action for damages be provided?)—Filed on June 17, 1992 by Theodore Pong of Kirkland. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 143 (Shall a transaction tax, not exceeding 1% be charged for receiving property or money, and state authorized taxes be repealed?)—Filed on June 23, 1992 by Clarence P. Keating of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 144 (Shall state and local tax levy rates on commercial and residential buildings, including new construction, be reduced by 50 percent?)—Filed on July 20, 1992 by Charles Caussey of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 145 (Shall the sale of cigarettes and other tobacco products be restricted to only state liquor stores and licensed tobacco shops?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 146 (Shall state law declare tobacco to be an addictive drug with adverse health consequences and should tobacco use be discouraged?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 147 (Shall it be criminal to sell or supply cigarettes or tobacco to persons under 21, whose possession would be unlawful?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 148 (Shall a 100% tax be imposed on the price of cigarettes and tobacco products for health care and tobacco education?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 149 (Shall retail stores selling food, gasoline or medications be prohibited from selling cigarettes and tobacco products and penalties be provided?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 150 (Shall cigarette and tobacco advertising be prohibited in or on any building or vehicle supported by state or local taxes?)—Filed on October 9, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 151 (Shall cigarette wholesalers and retailers be prohibited from selling unpackaged cigarettes either singly or in groups of less than twenty?)—Filed on October 27, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 152 (Shall retail sales of cigarettes and tobacco products be made only by state liquor stores and licensed specialty tobacco shops?)—Filed on October 29, 1992 by Susan Lee Mercer of Bellevue. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 153 (Shall state agencies relating to natural resources and outdoor recreation be merged under the responsibility of the public lands commissioner?)—Filed on March 12, 1993 by John L. Frost of Tumwater. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 154 (Relating to the support of children)—Filed on May 27, 1993 by Michael A. Frederick of Seattle. No ballot title was written.
- INITIATIVE TO THE LEGISLATURE NO. 155 (Shall prosecutors be required to strictly adhere to the statutory prosecuting standards, and shall their duties regarding arrests be modified?)—Filed on July 27, 1993 by Donald E. Jewett of Langley. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 156 (Shall public schools be required to provide instruction from the Bible as a basis for values, morals and character development?)—Filed on March 9, 1994 by Edward "Randy" McLeary of Kent. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 157 (Shall the State assume control of the sale, and impose new regulations on possession of all ammunition in the state?)—Filed on March 9, 1994 by David L. Ross of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 158 (Shall the code reviser be directed to provide copies of uncodified portions of this and other acts to individual legislators?)—Filed on March 25, 1994 by Lawrence Allred of Olympia. The sponsor failed to submit signatures for checking.
- *INITIATIVE TO THE LEGISLATURE NO. 159 (Shall penalties and sentencing standards be increased for crimes involving a firearm, and sentences and plea agreements be public records?)**—Filed on April 8, 1994 by David LaCourse, Jr. of Mercer Island. 235,993 signatures were submitted and found sufficient. The measure was certified to the legislature on January 23, 1995. The act is now identified as Chapter 129, Laws of 1995.
- INITIATIVE TO THE LEGISLATURE NO. 160 (Shall the State apply to Congress for a constitutional convention to replace Congressional voting power with direct popular voting?)—Filed on March 29, 1994 by William R. Walker of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 161 (Shall libraries be fully subject to chapter 9.68 RCW, which requires labelling erotic material and restricts its distribution to minors?)—Filed on April 6, 1994 by Stephen W. Mosier of Brush Prairie. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 162 (Shall local taxing districts be required, before incurring any debt, to obtain voter assent at a primary or general election?)—Filed on April 26, 1994 by Dave C. McGregor of Seattle. Re-filed as Initiative to the Legislature No. 163.

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- INITIATIVE TO THE LEGISLATURE NO. 163 (Shall additional limits be placed on the authority of counties, cities, and towns, and certain other municipalities to incur debt?)—Filed on June 6, 1994 by Dave C. McGregor of Seattle. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 164 (Shall government be restricted in land use regulation and required to pay for property value reductions attributable to certain regulations?)—Filed on August 2, 1994 by Dan W. Wood of Hoquiam. 231,723 signatures were submitted and found sufficient. The measure was certified to the Legislature on February 13, 1995 and was passed by the Legislature on April 19, 1995. The act is now identified as Chapter 98, Laws of 1995. Referendum Measure No. 48 was subsequently filed against Initiative to the Legislature No. 164 and was submitted to the voters at the November 7, 1995 General Election. Referendum Measure No. 48 was rejected by the following vote: **For—544,788 Against—796,869**. As a consequence, Chapter 98, Laws of 1995 did not become law.
- INITIATIVE TO THE LEGISLATURE NO. 165 (Shall the uniform health care benefits package be required to include all licensed forms of health care, and made optional?)—Filed on August 25, 1994 by Harold Mills of Bellevue. The sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 166 (Shall government be prohibited from according rights or protections based on sexual orientation, and schools from presenting homosexuality as acceptable?)—Filed on March 8, 1995 by Peg O. Bronson of Lake Stevens. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 167 (Shall government be prohibited from placing children for adoption or foster care with any homosexuals or with cobabiting unmarried partners?)—Filed on March 8, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 168 (Shall certain laws be repealed which restrict or tax the transportation, sale, possession, or carrying of firearms, with certain exceptions?)—Filed on March 8, 1995 by Samuel P. Woodard, Sr. of Ariel. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 169 (Shall the state pay tuition aid for primary and secondary students to attend private or public schools of their choice?)—Filed on March 8, 1995 by Ronald W. Taber of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 170 (Shall the State apply to Congress for a constitutional convention to replace Congressional voting power with direct popular voting?)—Filed on March 28, 1995 by William R. Walker of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 171 (Shall the department of social and health services' authority to investigate complaints of child neglect, abuse, or abandonment be repealed?)—Filed on April 11, 1995 by Kenneth E. Gragson of Everett. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 172 (Shall state and local government be prohibited from granting "preferential treatment" based on race, sex, ethnic or sexual minority status?)—Filed on April 18, 1995 by Ronald W. Taber of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 173 (Shall the state pay scholarship vouchers for primary and secondary students to attend voucher-redeeming private or public schools of choice?)—Filed on April 18, 1995 by Ronald W. Taber of Olympia. 241,434 signatures were submitted and found sufficient. The measure was certified to the Legislature on February 5, 1996. The Legislature referred the measure to the 1996 general election ballot. At the

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November 5, 1996 general election the measure was rejected by the following vote: **For—775,281 Against—1,406,433.**

INITIATIVE TO THE LEGISLATURE NO. 174 (Shall DSHS be required to use multi-disciplinary teams in certain types of cases involving actual or potential serious child abuse?)—Filed on May 3, 1995 by Kenneth E. Gragsone of Everett. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 175 (Shall registered nurses licensed for ten years or more be authorized to practice medicine?)—Filed on June 6, 1995 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 176 (Shall juveniles of age fourteen or older who are charged with committing a crime while in possession of a weapon be tried as adults?)—Filed on July 13, 1995 by Richard E. Woodrow of Lynnwood. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 177 (Shall voters be authorized to create "renewed" school districts where nonprofit organizations may operate publicly-funded "independent" public schools with parental choice and revised state regulation?)—Filed on July 17, 1995 by James R. Spady of Seattle. 248,482 signatures were submitted and found sufficient. The measure was certified to the Legislature on January 30, 1996. The Legislature referred the measure to the 1996 general election ballot. At the November 5, 1996 general election the measure was rejected by the following vote: **For—762,367 Against—1,380,816.**

INITIATIVE TO THE LEGISLATURE NO. 178 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be gradually reduced?)—Filed on August 2, 1995 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 179 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)—Filed on October 11, 1995 by Robert F. Gault of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 180 (Shall state revenue be reduced by lowering certain business and occupation taxes, revising insurance company premium tax credits, and limiting the state property tax levy?)—Filed on October 12, 1995 by Michael V. Wolfe of Lacey. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 181 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)—Filed on October 23, 1995 by Vito T. Chiechi of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 182 (Shall Easter Sunday, the day after Easter Sunday, and the day after Christmas Day be made legal holidays in the State of Washington?)—Filed on October 12, 1995 by Melody R. Hegwald of Everett. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 183 (Shall video lottery terminals be authorized at the option of each city and county, as defined by this measure and regulated by the gambling commission?)—Filed on October 26, 1995 by Vito T. Chiechi of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 184 (Shall property tax values be frozen at their 1995 levels, plus a maximum two percent annual inflation, and annual tax levy increases be gradually reduced?)—Filed on March 13, 1996 by Steven R. Hargrove of Poulsbo. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 185 (Shall the state of Washington apply to Congress for a constitutional convention to consider abolishing Congressional voting in favor of

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direct balloting by the people?)—Filed on March 14, 1996 by William R. Walker of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 186 (**Shall an office of state inspector general be created to investigate and challenge incorrect or unjust governmental practices and enforce fair business practices by licensees?**)—Filed on March 13, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 187 (**Shall a 60-day waiting period be required before a marriage is performed, and waiting periods required before a marriage with minor children may be dissolved?**)—Filed on March 13, 1996 by Bill Harrington of Tacoma. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 188 (**Shall marine water protection programs be extended, oil spill prevention increased and funded by oil shipment taxes, offshore oil-drilling banned, and salmon habitat incentives offered?**)—Filed on March 27, 1996 by Jeffrey D. Parsons of Tumwater. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 189 (**Shall additional limits and restrictions be placed on contributions to political campaigns and ballot measures from corporations, businesses, political parties, political committees, and individuals?**)—Filed on March 19, 1996 by Roger Kluck of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 190 (**Shall all persons buying, selling, distributing or possessing a firearm or ammunition in Washington be required to have a valid firearm and ammunition safety license?**)—Filed on March 27, 1996 by Scott S. Carpenter of Bellevue. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 191 (**Shall an office of state inspector general be created to investigate complaints of malfeasance or abuse by government agencies and business licensees?**)—Filed on April 4, 1996 by Mx. T. Englerius of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 192 (**Shall every health insurance plan be required to cover the services of all licensed podiatrists, chiropractors, naturopaths, optometrists, osteopaths, pharmacists, physicians and psychologists?**)—Filed on April 4, 1996 by John C. Peick of Issaquah. The sponsor submitted 188,967 signatures for checking and they were found insufficient to qualify the measure to be submitted to the 1997 legislature.

INITIATIVE TO THE LEGISLATURE NO. 193 (**Shall the English language be declared the state's only official language for the conduct of all business by state and local government, with limited exceptions?**)—Filed on April 19, 1996 by James L. Morrison of Yakima. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 194 (**Shall persons convicted of certain sex crimes involving children be sentenced to life imprisonment without parole, plus a fine of no less than \$100,000?**)—Filed on May 29, 1996 by Christopher P. Clifford of Renton. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 195 (**Shall the state repeal all existing state taxes, and levy instead a 1% tax on all transfers of property and a temporary 1% property tax?**)—Filed on June 27, 1996 by Clarence P. Keating, Jr. of Seattle. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 196 (**Shall taxes on property used as the owner's principal residence be limited, state taxes on such properties be eliminated, and assessment based on "adjusted value"?**)—Filed on March 19, 1997 by Donald Carter of Olympia. Sponsor failed to submit signatures for checking.

INITIATIVE TO THE LEGISLATURE NO. 197 (**Shall the industrial, medicinal, and personal use of hemp (cannabis or marijuana) be permitted under some conditions, taxed, and**

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- regulated by the liquor control board?)—Filed on March 12, 1997 by Thomas A. Rohan of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 198 (Shall an Office of State Inspector General be created to investigate complaints of abuse by government agencies, and to enforce fair and ethical business practices?)—Filed on March 19, 1997 by Maximus T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 199 (Shall registered nurses who have been licensed for ten or more years be authorized to practice medicine?)—Filed on March 25, 1997 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.
- *INITIATIVE TO THE LEGISLATURE NO. 200 (Shall government be prohibited from discriminating or granting preferential treatment based on race, sex, color, ethnicity or national origin in public employment, education, and contracting?)—Filed on March 26, 1997 by Scott Smith and Tim Eyman of Seattle. 280,511 signatures were filed and found sufficient. The measure was certified to the Legislature on January 21, 1998. The Legislature referred the measure to the 1998 general election ballot. At the November 3, 1998 general election the measure was approved by the following vote: For—1,099,410 Against—788,930.
- INITIATIVE TO THE LEGISLATURE NO. 201 (Shall the state's ad valorem property tax for the support of the common schools be repealed, beginning with the 1998 tax levy?)—Filed on March 25, 1997 by Paul Keister of Pasco. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 202 (Shall state officials be subject to new salary limitations, enhanced liability for wasted funds, and wrongful conduct, and shall citizen panels conduct employment security hearings?)—Filed on April 11, 1997 by Patrick M. Crawford of Litterlock. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 203 (Shall the State apply to Congress to call a federal constitutional convention to consider proposed constitutional amendments calling for nationwide electronic voting on certain matters?)—Filed on April 3, 1997 by William Walker of Auburn. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 204 (Shall officials be subject to new salary limitations, increased liability for wrongful conduct, and polygraph examinations, and shall citizen panels conduct employment security hearings?)—Filed on April 28, 1997 by Patrick M. Crawford of Olympia. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 205 (Shall an Office of State Inspector General be created to investigate complaints of government malfeasance, unethical business practices, and judicial abuses?)—Filed on April 14, 1997 by Maximus T. Englerius of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 206 (Shall certain state laws regulating land use and development, including laws governing growth management, land use permit decisions, and regional transportation planning, be repealed?)—Filed on July 1, 1997 by James L. Morrison of Yakima. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 207 (Shall public education be exempt from spending limit and tax increase conditions of Initiative 60I, appropriations be made, and public education laws be revised?)—Filed on June 30, 1997 by Kaye M. Pethe and Daniel A. Decker of Lake Forest Park. Sponsors failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 208 (Shall a youth athletic facilities council be created to prepare a state-wide plan to develop youth athletic facilities, encourage regional coordination, and administer grant programs?)—Filed on September 16, 1997 by Malcolm S. Sotebeer of Seattle. Sponsor failed to submit signatures for checking.
- INITIATIVE TO THE LEGISLATURE NO. 209 (Shall the State apply to Congress for a federal constitutional convention, for the purpose of considering constitutional amendments on

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national electronic voting, and other business?)—Filed on March 12, 1998 by William R. Walker of Auburn. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 210 (Shall government officials be subject to new salary limitations, increased liability for misconduct, and mandatory polygraph examinations, and shall citizen panels conduct employment security hearings?)—Filed on March 25, 1998 by Patrick M. Crawford of Litterlock. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 211 (Shall the state of Washington recognize out-of-state concealed pistol licenses issued to nonresidents, provided the license meets specific requirements, including criminal and mental background checks?)—Filed on April 23, 1998 by Alan M. Gottlieb of Bellevue. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 212 (Shall taxes on property used as the owner's principal residence be limited, state taxes on such properties be eliminated, and assessment based on "adjusted value"?)—Filed on May 22, 1998 by Donald W. Carter of Olympia. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 213 (Shall it be unlawful to install cameras in dressing rooms, hotel or motel rooms, and certain other private areas, with exceptions described in the measure?)—Filed on June 17, 1998 by Thomas E. Bader of Redmond. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 214 (Shall the state school property tax levy be halved and then eliminated, and shall governments be required to use condemnation to restrict certain property uses?)—Filed on June 29, 1998 by Daniel W. Wood of Hoquiam. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 215 (Shall state property taxes for schools be halved and then eliminated, and governments required to use negotiation or condemnation for "open space" requirements on property?)—Filed on July 27, 1998 by Daniel W. Wood of Hoquiam. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 216 (Shall Washington residents who have been found to have committed bias/hate offenses be required to register with the sheriff in the county where they live?)—Filed on July 2, 1998 by J. Craig Church of Port Townsend. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 217 (Shall state school property taxes be gradually eliminated, funds earmarked for public education, and governments required to negotiate and purchase "open space" restrictions on property?)—Filed on August 3, 1998 by Daniel W. Wood of Hoquiam. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 218 (Shall the license tax fee for all motor vehicles be \$30 per year, and shall existing motor vehicle excise taxes and licensing fees be repealed?)—Filed on September 8, 1998 by Timothy D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 219 (Shall license tax fees be \$30 per year for motor vehicles, existing motor vehicle taxes be repealed, and voter approval be required for tax increases?)—Filed on October 8, 1998 by Timothy D. Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 220 (Shall government officials be subject to limitations on salary, criminal prosecution with no limitation period, loss of pension rights for misconduct, and mandatory polygraph examinations?)—Filed on March 23, 1999 by Patrick M. Crawford of Litterlock. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 221 (Shall the Office of State Inspector General be created, with authority to conduct hearings, order corrective action, levy fines for wrongdoing, and revise government decisions?)—Filed on March 15, 1999 by Maximus T. Englerius of Seattle. No signature petitions were presented for checking.

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- INITIATIVE TO THE LEGISLATURE NO. 222 (**Shall the existing state expenditure limit be replaced by a new state revenue limit, calculated each year and based on changes in state personal income?**)—Filed on April 7, 1999 by Alan Merson of Bainbridge Island. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 223 (**Shall the state apply to Congress to convene a federal constitutional convention to consider an amendment allowing referendums on federal legislative, executive, and judicial acts?**)—Filed on May 12, 1999 by William R. Walker of Auburn. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 224 (**Shall the Office of State Inspector General be created, with authority to conduct hearings, order corrective action, levy fines, and resolve conflicts concerning government action?**)—Filed on May 13, 1999 by Maximus T. Englerius of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 225 (**Shall public schools allow prayer and bible reading, and shall they provide religious teaching that God created the world and of values taught by God?**)—Filed on June 14, 1999 by Deborah Lynn Berkley of Yakima. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 226 (**Relating to taxes**)—Filed on July 16, 1999 by Dave C. McGregor of Seattle. The initiative was withdrawn by the sponsor.
- INITIATIVE TO THE LEGISLATURE NO. 227 (**Shall a statewide health insurance plan be created, available to all state residents, and shall certain requirements be imposed on public and private health plans?**)—Filed on July 29, 1999 by Raleigh K. Stitt of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 228 (**Shall voter approval be required for any state or local tax increases, and shall a \$500 credit be provided for each parcel of real property?**)—Filed on August 10, 1999 by Dave C. McGregor of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 229 (**Shall the cultivation and use of cannabis (marijuana) be legalized, and shall cannabis be sold, taxed, and regulated by a cannabis and liquor control commission?**)—Filed on August 2, 1999 by Flonie Green of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 230 (**Shall the state property tax be phased-out using immediate reductions and excess revenues; property tax levies be further limited; and certain homeowner tax deferrals provided?**)—Filed on October 5, 1999 by Gerald D. Schaefer of Aberdeen. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 231 (**Shall certain 1999 tax and fee increases be nullified, motor vehicles exempted from property taxes, property valuations limited, and property tax levy increases further restricted?**)—Filed on November 23, 1999 by Tim D. Eyman of Mukilteo. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 232 (**Shall the priority of water rights be changed to provide each citizen a domestic water right, used either individually or combined into water systems?**)—Filed on March 8, 2000 by Theodore E. Cowan of Issaquah. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 233 (**Shall courts be required to order shared custody of children in marriage dissolutions, except where the parents agree otherwise or there is abuse or neglect?**)—Filed on March 8, 2000 by William Harrington of Tacoma. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 234 (**Shall businesses be required to protect consumer privacy, through restrictions on obtaining or transferring personal consumer information,**

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- and through requiring consent to disclose sensitive information?—**Filed on March 8, 2000 by Margarita Prentice of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 235 (Shall the state apply to Congress to call a constitutional convention to consider a proposed federal constitutional amendment concerning national electronic voting and other matters?)—**Filed on March 13, 2000 by William R. Walker of Auburn. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 236 (Shall American-English be the official language of the state of Washington, and shall state and local governments be required to conduct all business in American-English?)—**Filed on April 3, 2000 by Jim Morrison of Naches. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 237 (Shall the legislature be directed to enact legislation calling for a federal Constitutional Convention to consider a proposed amendment establishing a national initiative and referendum?)—**Filed on March 29, 2000 by Richard Lee Moore of Underwood. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 238 (Shall financial institutions and insurance companies be required to protect the privacy of personal information through restrictions on obtaining and transferring information without consumer consent?)—**Filed on April 11, 2000 by Brian Sullivan of University Place. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 239 (Shall 90% of transportation funds, including transit taxes, be spent for roads; transportation agency performance audits required; and road construction and maintenance be sales tax-exempt?)—**Filed on April 24, 2000 by Suzanne D. Karr of Everett. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 240 (Shall state property tax levies be eliminated; assessed value capped at 50% of true value; taxes calculated at \$5.90 per \$1000; and RCW 84.41 repealed?)—**Filed on April 27, 2000 by Donald Carter of Olympia. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 241 (Shall park lands be protected for public enjoyment by restricting changes in use, reallocating existing revenues to parks and recreation, and authorizing additional financial support?)—**Filed on April 24, 2000 by James L. King, Jr. of Olympia. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 242 (Shall an Office of State Inspector General be created, authorized to conduct hearings, issue cease and desist warnings, bring court actions, and review judicial performance?)—**Filed on April 26, 2000 by Maximus T. Englerius of Seattle. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 243 (Shall the privacy of personal information be protected through restrictions on collection, use, and disclosure by businesses, with additional protection for financial and medical information?)—**Filed on May 18, 2000 by J. R. Baker of Bainbridge. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 244 (Initiative Measure No. 244 concerns a constitutional amendment to change voting requirements on school levies. This measure would direct the legislature to propose and submit an amendment to the state constitution. The proposed amendment would require a simple majority vote for passage of school maintenance and operation levies.)—**Filed on June 14, 2000 by Stanley J. McKinney of Port Orchard. No signature petitions were presented for checking.
- INITIATIVE TO THE LEGISLATURE NO. 245 (Initiative Measure No. 245 concerns creation of a health benefits system. This measure would create a state agency to develop and administer a single health benefits package for state residents, funded by mandatory premiums, employer assessments, existing taxes, and co-payments.)—**Filed on June 16, 2000 by Stuart J. Bramhall of Seattle. No signature petitions were presented for checking.

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INITIATIVE TO THE LEGISLATURE NO. 246 (Initiative Measure No. 246 concerns establishing procedures for amending the constitution by initiative. This measure would declare that the people have the right to amend the constitution by using the initiative power without amending any existing constitutional language, and would set forth requirements for doing so.)—Filed on July 6, 2000 by Jeffrey W. Sowers of Olympia. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 247 (Initiative Measure No. 247 concerns imposing tolls or user fees on roads and bridges. This measure would prohibit tolls or user fees to pay for improvement, maintenance, or operation costs for existing roads or bridges; prohibit agreements that limit existing two-way, toll-free travel; and repeal several statutes.)—Filed on August 4, 2000 by Randy G. Boss of Gig Harbor. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 248 (Initiative Measure No. 248 concerns the production and sale of cannabis (marijuana) and hemp. This measure would permit the cultivation and sale of cannabis (marijuana) and hemp. A state cannabis and liquor control commission would regulate and sell marijuana. Supplying marijuana to minors would be a crime.)—Filed on July 27, 2000 by Douglas P. Stanford of Bellevue. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 249 (Initiative Measure No. 249 concerns the state expenditure limit. This measure would extend annual expenditure limits to most funds and accounts in the state treasury, with procedures for adjustment. Emergency reserve fund provisions would be revised and excess amounts would be redistributed.)—Filed on August 21, 2000 by Chad E. Taylor of Chehalis. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 250 (Initiative Measure No. 250 concerns benefits for state employees and their dependents. This measure would limit eligibility for state employee insurance benefits to those meeting qualifications in effect May 1, 2000. "Spouse" would include only persons married to eligible employees according to Washington law.)—Filed on October 2, 2000 by Andrea K. Vangor. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 251 (Initiative Measure No. 251 concerns limiting the growth of state revenue. This measure would limit the growth of total state revenue to the rate of inflation, beginning with the year 2000, with intent that the legislature reduce property taxes to stay within this limit.)—Filed on November 16, 2000 by Tim D. Eyman of Mukilteo, Leo J. Fagan of Spokane, and M. J. Fagan of Spokane. The initiative was withdrawn by the sponsor on December 12, 2000.

INITIATIVE TO THE LEGISLATURE NO. 252 (Initiative Measure No. 252 concerns local government tax and fee increases. This measure would require voter approval for all future local government tax and fee increases, and would restore such taxes and fees to their January 1, 2000, levels, unless approved by the voters.)—Filed on November 16, 2000 by Tim D. Eyman of Mukilteo, Leo J. Fagan of Spokane, and M. J. Fagan of Spokane. The initiative was withdrawn by the sponsor on December 12, 2000.

INITIATIVE TO THE LEGISLATURE NO. 253 (Initiative Measure No. 253 concerns gathering of initiative petition signatures. This measure would require that a person collecting signatures for an initiative petition be a registered voter in the legislative district in which the person is collecting signatures.)—Filed on November 27, 2000 by William A. Arensmeyer of Tumwater. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 254 (Statement of the Subject: Initiative Measure No. 254 concerns requirements that food producers and distributors label genetically engineered food. Concise Description: This measure would require labeling on human or animal food which contains genetically engineered material, or is produced with

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genetically engineered material. The measure would specify labeling content and would allow certain exceptions.)—Filed on March 14, 2001 by Helen L. Frost of Rainier. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 255 (Statement of the Subject: Initiative Measure No. 255 concerns the display and distribution of sexually explicit material and performances. Concise Description: This measure would make it a gross misdemeanor to display or distribute, to children under eighteen, sexual material defined as "harmful to minors." Certain defenses would apply. Inconsistent local laws would be preempted.)—Filed on April 6, 2001 by Daniel R. Anderson of Arlington. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 256 (Statement of the Subject: Initiative Measure No. 256 concerns property forfeiture arising from controlled substances crimes. Concise Description: This measure would make numerous changes to laws forfeiting property connected with drug crimes, including a requirement of conviction of all owners, additional hearings, and requiring sale, not government use, of forfeited property.)—Filed on May 24, 2001 by Ernest R. Lewis of Olympia. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 257 (Statement of the Subject: Initiative Measure No. 257 concerns performance audits conducted by the state auditor. Concise Description: This measure would direct the state auditor to conduct performance audits of state agencies and institutions. A citizens' oversight committee would be created, and \$3 million would be appropriated for the current biennium.)—Filed on June 13, 2001 by Suzanne D. Karr of Everett. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 258 (Statement of the Subject: Initiative Measure No. 258 concerns dissolving a regional transit authority. Concise Description: This measure would require the dissolution of Sound Transit, a regional transit authority previously established in King, Pierce, and Snohomish Counties. Remaining Sound Transit money would be transferred to the state transportation fund.)—Filed on October 2, 2001 by Kris A. Wilder of Seattle. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 259 (This measure was withdrawn by the sponsors on December 10, 2001.)—Filed on November 20, 2001 by Tim Eyman of Seattle, M. J. Fagan of Spokane, and Leo J. Fagan of Spokane.

INITIATIVE TO THE LEGISLATURE NO. 260 (Statement of Subject: Initiative Measure No. 260 concerns limiting taxes and fees on motor vehicles and light trucks. Concise Description: This measure would require license tab fees to be \$30 per year for motor vehicles and light trucks. Certain excise taxes and fees imposed on motor vehicles for transportation purposes would be repealed.)—Filed on December 5, 2001 by Tim Eyman of Mukilteo. No signature petitions were presented for checking.

INITIATIVE TO THE LEGISLATURE NO. 261 (The Attorney General's Office refused to supply a ballot title for Initiative Measure No. 261.)—Filed on December 10, 2001 by Tim D. Eyman of Mukilteo.

REFERENDUM MEASURES

- REFERENDUM MEASURE NO. 1 (Chapter 48, Laws of 1913, Teachers' Retirement Fund)—Filed March 11, 1913. Submitted to the people at the state general election held on November 3, 1914. *Failed to pass by the following vote: For—59,051 Against—252,356. As a consequence, Chapter 48, Laws of 1913 did not become law.
- REFERENDUM MEASURE NO. 2 (Chapter 180, Laws of 1913, Quincy Valley Irrigation Measure)—Filed March 25, 1913. Submitted to the people at the state general election held on November 3, 1914. *Failed to pass by the following vote: For—102,315 Against—189,065. As a consequence, Chapter 180, Laws of 1913 did not become law.
- REFERENDUM MEASURE NO. 3 (Chapter 54, Laws of 1915, Relating to Initiative and Referendum)—Filed March 18, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—62,117 Against—196,363. As a consequence, Chapter 54, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 4 (Chapter 55, Laws of 1915, Recall of Elective Public Officers)—Filed March 18, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—63,646 Against—193,686. As a consequence, Chapter 55, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 5 (Chapter 52, Laws of 1915, Party Conventions Act)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—49,370 Against—200,499. As a consequence, Chapter 52, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 6 (Chapter 181, Laws of 1915, Anti-Picketing)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—85,672 Against—183,042. As a consequence, Chapter 181, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 7 (Chapter 178, Laws of 1915, Certificate of Necessity Act)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—46,820 Against—201,742. As a consequence, Chapter 178, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 8 (Chapter 46, Laws of 1915, Port Commission)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—45,264 Against—195,253. As a consequence, Chapter 46, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 9 (Chapter 49, Laws of 1915, Budget System)—Filed March 25, 1915. Submitted to the people at the state general election held on November 7, 1916. *Failed to pass by the following vote: For—67,205 Against—181,833. As a consequence, Chapter 49, Laws of 1915 did not become law.
- REFERENDUM MEASURE NO. 10 (Chapter 19, Laws of 1917, Bone Dry Law)—Filed February 20, 1917. Submitted to the people at the state general election held on November 5, 1918. Measure passed by the following vote: For—96,100 Against—54,322.
- REFERENDUM MEASURE NO. 11 (Chapter 167, Laws of 1917, Capitol Building Fund Bonds)—Filed April 23, 1917. No petition filed.
- REFERENDUM MEASURE NO. 12A (Chapter 77, Laws of 1919, Salary of Judges)—Filed April 14, 1919. No petition filed.
- REFERENDUM MEASURE NO. 12B (Chapter 59, Laws of 1921, Certificate of Necessity)—Filed March 26, 1921. Submitted to the people at the state general election held on November 7,

*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

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1922. ***Failed to pass** by the following vote: For—64,800 Against—154,905. As a consequence, Chapter 59, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 13A (Chapter 112, Laws of 1919, Death Penalty)—Filed April 14, 1919. No petition filed.
- REFERENDUM MEASURE NO. 13B (Chapter 175, Laws of 1921, Physical Examination of School Children)—Filed April 4, 1921. Submitted to the people at the state general election held on November 7, 1922. ***Failed to pass** by the following vote: For—96,874 Against—156,113. As a consequence, Chapter 175, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 14A (Senate Joint Resolution No. 1, Laws of 1919, Intoxicating Liquor)—Filed March 20, 1919. Insufficient number of signatures on petition.
- REFERENDUM MEASURE NO. 14B (Chapter 177, Laws of 1921, Primary Nominations and Registrations)—Filed April 9, 1921. Submitted to the people at the state general election held on November 7, 1922. ***Failed to pass** by the following vote: For—60,593 Against—164,004. As a consequence, Chapter 177, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 15 (Chapter 176, Laws of 1921, Party Conventions)—Filed April 9, 1921. Submitted to the people at the state general election held on November 7, 1922. ***Failed to pass** by the following vote: For—57,324 Against—140,299. As a consequence, Chapter 176, Laws of 1921 did not become law.
- REFERENDUM MEASURE NO. 16 (Chapter 22, Laws of 1923, Butter Substitutes)—Filed March 22, 1923. Submitted to the people at the state general election held on November 4, 1924. ***Failed to pass** by the following vote: For—169,047 Against—203,016. As a consequence, Chapter 22, Laws of 1923 did not become law.
- REFERENDUM MEASURE NO. 17 (Chapter 115, Laws of 1929, Creating Department of Highways)—Filed April 27, 1929. No petition filed.
- REFERENDUM MEASURE NO. 18 (Chapter 51, Laws of 1933, Cities and Towns; Electric Energy)—Filed April 7, 1933. Submitted to the people at the state general election held on November 6, 1934. Measure passed by the following vote: For—221,590 Against—160,244.
- REFERENDUM MEASURE NO. 19 (Chapter 55, Laws of 1933, Horse Racing)—Filed April 3, 1933. No petition filed.
- REFERENDUM MEASURE NO. 20 (Chapter 118, Laws of 1935, Regulating Pilots)—Filed February 8, 1935. No petition filed.
- REFERENDUM MEASURE NO. 21 (Chapter 26, Laws of 1935, Blanket Primary Ballot)—Filed April 8, 1935. No petition filed.
- REFERENDUM MEASURE NO. 22 (Chapter 209, Laws of 1941, Industrial Insurance)—Filed April 3, 1941. Submitted to the people at the state general election held on November 3, 1942. Measure passed by the following vote: For—246,257 Against—108,845.
- REFERENDUM MEASURE NO. 23 (Chapter 158, Laws of 1941, Providing for Legal Adviser for Grand Juries)—Filed April 16, 1941. Submitted to the people at the state general election held on November 3, 1942. ***Failed to pass** by the following vote: For—126,972 Against—148,266. As a consequence, Chapter 158, Laws of 1941 did not become law.
- REFERENDUM MEASURE NO. 24 (Chapter 191, Laws of 1941, Prosecuting Attorneys; Providing that they shall no longer give advice to Grand Juries)—Filed April 16, 1941. Submitted to the people at the state general election held on November 3, 1942. ***Failed to pass** by the following vote: For—114,603 Against—148,439. As a consequence, Chapter 191, Laws of 1941 did not become law.

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- REFERENDUM MEASURE NO. 25 (Chapter 15, Laws of 1943, Relating to Public Utility Districts)—Filed March 18, 1943. Submitted to the people at the state general election held on November 7, 1944. ***Failed to pass** by the following: For—297,919 Against—373,051. As a consequence, Chapter 15, Laws of 1943 did not become law.
- REFERENDUM MEASURE NO. 26 (Chapter 37, Laws of 1945, Relating to appointment of State Game Commissioners by the Governor)—Filed April 3, 1945. Signature petitions filed June 6, 1945, and found sufficient. Submitted to the people at the state general election held on November 5, 1946. ***Failed to pass** by the following vote: For—69,490 Against—447,819. As a consequence, Chapter 37, Laws of 1945 did not become law.
- REFERENDUM MEASURE NO. 27 (Chapter 202, Laws of 1945, Relating to the creation of a State Timber Resources Board)—Filed April 3, 1945. Signature petitions filed June 6, 1945, and found sufficient. Submitted to the people at the state general election held on November 5, 1946. ***Failed to pass** by the following vote: For—107,731 Against—422,026. As a consequence, Chapter 202, Laws of 1945 did not become law.
- REFERENDUM MEASURE NO. 28 (Portion of Chapter 235, Laws of 1949, Relating to accident and health insurance covering employees eligible for unemployment compensation)—Filed March 30, 1949. Signature petitions filed June 8, 1949 and found sufficient. Submitted to the people at the state general election held on November 7, 1950. ***Failed to pass** by the following vote: For—163,923 Against—467,574. As a consequence, only sections 1 through 5, inclusive, became law.
- REFERENDUM MEASURE NO. 29 (Portion of Chapter 190, Laws of 1949, State Insurance Code)—Filed April 2, 1949. No signature petitions presented for canvassing.
- REFERENDUM MEASURE NO. 30 (Chapter 280, Laws of 1957, Inheritance Tax on Insurance Proceeds)—Filed April 12, 1957. Signature petitions filed June 17, 1957, and found sufficient. Measure submitted to the voters at the state general election held on November 4, 1958. ***Failed to pass** by the following vote: For—52,223 Against—811,539. As a consequence, Chapter 280, Laws of 1957 did not become law.
- REFERENDUM MEASURE NO. 31 (Portion of Chapter 297, Laws of 1959, Authorizing corporations and joint stock associations to practice engineering)—Filed March 31, 1959. Signature petition sheets presented for canvassing June 10, 1959. Results of canvassing revealed that sponsors missed obtaining necessary number of valid signatures by 1,124 signatures. As a result attempt to refer law to voters failed.
- REFERENDUM MEASURE NO. 32 (Chapter 298, Laws of 1961, Washington State Milk Marketing Act)—Filed March 22, 1961 by the Washington State Milk Consumers' League. Supporting signature petition sheets filed June 14, 1961, and as of July 26, 1961, it was determined that the necessary number of valid signatures had been obtained to certify measure for final decision by the voters at the state general election held on November 6, 1962. ***Failed to pass** by the following vote: For—153,419 Against—677,530. As a consequence, Chapter 298, Laws of 1961 did not become law.
- REFERENDUM MEASURE NO. 33 (Chapter 275, Laws of 1961, Private Auditors of Municipal Accounts)—Filed April 3, 1961 by Cliff Yelle, State Auditor. Supporting signature petition sheets filed June 6, 1961, and as of July 18, 1961, it was determined that the necessary number of valid signatures had been obtained to certify measure for final decision by the voters at the state general election held on November 6, 1962. ***Failed to pass** by the following vote: For—242,189 Against—563,475. As a consequence, Chapter 275, Laws of 1961 did not become law.
- REFERENDUM MEASURE NO. 34 (Chapter 37, Laws of 1963, Mechanical Devices, Salesboards, Cardrooms, Bingo)—Filed April 11, 1963 by Dr. Homer W. Humiston of Tacoma,

*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

REFERENDUM MEASURES

Washington. Since said act contained an emergency clause making the law effective upon the approval of the Governor it was necessary for Dr. Humiston to initiate court action to determine whether or not emergency clause was valid. As of April 11, 1963 the State Supreme Court setting en banc ruled that the emergency clause was not valid and directed the Secretary of State to accept and file papers relative to the referendum (Case No. 36998).

Dr. Humiston, as sponsor of Referendum Measure No. 34, filed signature petition sheets containing a total of 82,995 signatures supporting Referendum Measure No. 34, during the period June 3 through June 12, 1963.

As of June 24, 1963, it was discovered that all such signature petition sheets had been stolen. However, two days later (June 26, 1963), Secretary of State Victor A. Meyers certified Referendum Measure No. 34 to the respective county auditors with direction that said measure appear upon the November 3, 1964 state general election ballot in spite of the fact that the signatures had been stolen. Such action was justified upon the grounds that the sponsor of said referendum had filed 82,995 signatures when only 48,630 valid signatures were needed. On July 22, 1963 the Amusement Association of Washington brought court action against the Secretary of State challenging the certification of Referendum Measure No. 34.

On July 22, 1963, the Thurston County Superior Court ruled that the Secretary of State had acted properly under the circumstances. On March 26, 1964, the State Supreme Court sustained the Thurston County Superior Court by likewise ruling that the Secretary of State's certification was valid.

Measure then submitted to the voters at the state general election held on November 3, 1964. ***Failed to pass** by the following vote: **For—505,633 Against—622,987**. As a consequence, Chapter 37, Laws of 1963 did not become law.

REFERENDUM MEASURE NO. 35 (**Portion of Chapter 22, Laws of 1967, Nondiscrimination by Realty Brokers, Salesmen**)—Filed March 22, 1967 by the AD-HOC (Advisory Home Owners Committee). Signatures (81,146) filed June 6, 1967 and found sufficient. Measure submitted to the voters for decision at the November 5, 1968 state general election. Measure passed by the following vote: **For—580,578 Against—276,161**. Consequently, the attempt by the sponsors of this referendum to negate the open housing provision of Chapter 22, Laws of 1967 was unsuccessful.

REFERENDUM MEASURE NO. 36 (**Chapter 100, Laws of 1973, Minimum Age—Alcoholic Beverage Control**)—Filed April 4, 1973 by Lloyd C. Tremain, Chairman, Citizens United for Responsible Legislation. Signatures (79,389) filed June 7, 1973 and found sufficient. Measure submitted to the voters for decision at the November 6, 1973 state general election. ***Failed to pass** by the following vote: **For—495,624 Against—510,491**. As a consequence, Chapter 100, Laws of 1973 did not become law.

REFERENDUM MEASURE NO. 37 (**Chapter 288, Laws of 1975 Extraordinary Session, Shall the present law governing professional negotiations for certificated educational employees be repealed, and a new law substituted therefore?**)—Filed July 18, 1975 by Mrs. Alice K. Matz of Kent, Washington. No signatures presented for checking.

REFERENDUM MEASURE NO. 38 (**Chapter 113, Laws of 1975-'76 2nd Extraordinary Session, Shall the salaries of state legislators be increased from \$3,800 to \$7,200 effective at the beginning of their next term?**)—Filed April 6, 1976 by Mr. Paul E. Byrd of Tacoma. No signatures presented for checking.

REFERENDUM MEASURE NO. 39 (**Chapter 361, Laws of 1977 Extraordinary Session, Shall certain changes be made in voter registration laws, including registration by mail and absentee voting on one day's registration?**)—Filed June 22, 1977 by Kent Pullen. Signatures (74,000) filed September 20, 1977 and found sufficient. Measure submitted to the voters for decision at the November 8, 1977 state general election. ***Failed to pass** by the following vote:

*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

REFERENDUM MEASURES

For—303,353 Against—632,131. As a consequence, Chapter 361, Laws of 1977 Ex. Sess. did not become law.

REFERENDUM MEASURE NO. 40 (Chapter 288, Laws of 1977 Extraordinary Session, Shall a state women's commission be established by statute?)—Filed July 29, 1977 by Susan Roylance, Representative of Women for Integrity in the Nation. Signatures (108,000) filed September 20, 1977 and found sufficient. Measure submitted to the voters for decision at the November 8, 1977 state general election. ***Failed to pass** by the following vote: **For—259,761 Against—664,962.** As a consequence, Chapter 288, Laws of 1977 Ex. Sess. did not become law.

REFERENDUM MEASURE NO. 41 (Chapter 204, Laws of 1984, Shall the timber harvest tax be continued at a 6.5% rate rather than gradually reduced over four years to 5%?)—Filed March 22, 1984 by Eleanor Fortson of Camano Island. The court ordered a writ of prohibition to prevent the referendum form appearing on the November, 1984 election ballot.

REFERENDUM MEASURE NO. 42 (Chapter 152, Laws of 1986, Shall seat belt use be mandatory for drivers and passengers of motor vehicles federally required to have installed seat belts?)—Filed April 7, 1986 by Mark Gabel of Parkland. No signatures presented for checking.

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 elected state officials, legislators and judges be approved?)—Filed June 5, 1987 by Ed Phillips of Mossyrock. No signatures presented for checking.

REFERENDUM MEASURE NO. 46 (Chapter 1, Laws of 1991, First Extraordinary Session, Shall the salary increases, established by the constitutionally created Citizens Commission, for elected state officers, legislators, and judges be approved?)—Filed June 5, 1991 by Michael G. Cahill of Walla Walla. No signatures presented for checking.

REFERENDUM MEASURE NO. 47 (Chapter 336, Laws of 1993, The state legislature has passed a law that revises the state's education system in many ways, such as adopting new student learning goals, revising educator training and assistance, and requiring educator performance assessments. Should this law be approved or rejected?)—Filed May 13, 1993 by O. Jerome Brown of Rolling Bay. No signatures presented for checking.

REFERENDUM MEASURE NO. 48 (Chapter 98, Laws of 1995, originally certified as Initiative Measure No. 164, The state legislature has passed a law that restricts land-use regulations and expands governments' liability to pay for reduced property values of land or improvements thereon caused by certain regulations for public benefit. Should this law be approved or rejected?)—Filed April 19, 1995 by Lucy B. Steers of Seattle. Sponsor submitted 231,122 signatures on July 21, 1995 and the measure was subsequently certified to the ballot. Submitted to the voters at the November 7, 1995 general election and was rejected by the following vote: **For—544,788 Against—796,869.** As a consequence, Chapter 98, Laws of 1995 did not become a law.

REFERENDUM MEASURE NO. 49 (Chapter 184, Laws of 1995, The state legislature has passed a law that adds criminal trespass to the list of crimes for which police officers may arrest persons without witnessing the offense or first obtaining an arrest warrant. Should this

*Term "Failed to pass" indicates sponsor of Referendum was successful in attempt to prevent measure from becoming effective law.

REFERENDUM MEASURES

law be approved or rejected?)—Filed May 3, 1995 by Kenneth E. Gragsone of Everett. No signatures presented for checking.

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REFERENDUM BILLS

(Measures passed by the Legislature and referred to the voters)

- REFERENDUM BILL NO. 1 (Chapter 99, Laws of 1919, State System Trunk Line Highways)—Filed March 13, 1919. Submitted to the people at the state general election held on November 2, 1920. Failed to pass by the following vote: **For**—117,425 **Against**—191,783.
- *REFERENDUM BILL NO. 2 (Chapter 1, Laws of 1920 Extraordinary Session, Soldiers' Equalized Compensation)—Filed March 25, 1920. Submitted to the people at the state general election held on November 2, 1922. Measure approved by the following vote: **For**—224,356 **Against**—88,128.
- REFERENDUM BILL NO. 3 (Chapter 87, Laws of 1923, Electric Power Bill)—Filed March 22, 1923. Submitted to the people at the state general election held on November 4, 1924. Failed to pass by the following vote: **For**—99,459 **Against**—208,809.
- REFERENDUM BILL NO. 4 (Chapter 164, Laws of 1935, Flood Control; Creating Sinking Fund)—Filed March 22, 1935. Submitted to the people at the state general election held on November 3, 1936. Failed to pass by the following vote: **For**—114,055 **Against**—334,035.
- *REFERENDUM BILL NO. 5 (Chapter 83, Laws of 1939, 40-Mill Tax Limit)—Filed March 10, 1939. Submitted to the people at the state general election held on November 5, 1940. Measure approved by the following vote: **For**—390,639 **Against**—149,843.
- *REFERENDUM BILL NO. 6 (Chapter 176, Laws of 1941, Taxation of Real and Personal Property)—Filed March 22, 1941. Submitted to the people at the state general election held on November 3, 1942. Measure approved by the following vote: **For**—252,431 **Against**—75,540.
- *REFERENDUM BILL NO. 7 (Chapter 229, Laws of 1949—\$40,000,000.00 Bond Issue to Give State Assistance in Construction of Public School Plant Facilities)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Measure approved by the following vote: **For**—395,417 **Against**—248,200.
- *REFERENDUM BILL NO. 8 (Chapter 230, Laws of 1949—\$20,000,000.00 Bond Issue to Provide Funds for Buildings at State Operated Institutions)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Measure approved by the following vote: **For**—377,941 **Against**—262,615.
- REFERENDUM BILL NO. 9 (Chapter 231, Laws of 1949—\$20,000,000.00 Bond Issue to Provide Funds for Buildings at State Institutions of Higher Learning)—Filed March 22, 1949. Submitted to the people at the state general election held on November 7, 1950. Failed to pass by the following vote: **For**—312,500 **Against**—314,840.
- *REFERENDUM BILL NO. 10 (Chapter 299, Laws of 1957—\$25,000,000.00 Bond Issue to Provide Funds for Buildings at State Operated Institutions and State Institutions of Higher Learning)—Filed March 26, 1957. Measure submitted to the voters at the state general election held on November 4, 1958. Measure approved by the following vote: **For**—402,937 **Against**—391,726.
- *REFERENDUM BILL NO. 11 (Chapter 12, Laws of 1963 Extraordinary Session—Outdoor Recreation Bond Issue)—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: **For**—614,903 **Against**—434,978.
- *REFERENDUM BILL NO. 12 (Chapter 26, Laws of 1963 Extraordinary Session—Bonds For Public School Facilities)—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: **For**—782,682 **Against**—300,674.

REFERENDUM BILLS

- *REFERENDUM BILL NO. 13 (Chapter 27, Laws of 1963 Extraordinary Session—Bonds For Juvenile Correctional Institution)**—Filed April 18, 1963. Submitted to the voters at the state general election held on November 3, 1964. Measure approved by the following vote: **For—761,862 Against—299,783.**
- *REFERENDUM BILL NO. 14 (Chapter 158, Laws of 1965 Extraordinary Session—Bonds for Public School Facilities)**—Filed May 12, 1965. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: **For—583,705 Against—288,357.**
- *REFERENDUM BILL NO. 15 (Chapter 172, Laws of 1965 Extraordinary Session—Bonds for Public Institutions)**—Filed May 15, 1965. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: **For—597,715 Against—263,902.**
- *REFERENDUM BILL NO. 16 (Chapter 152, Laws of 1965 Extraordinary Session—Congressional Reapportionment and Redistricting)**—Enrolled bill was received directly from the office of Chief Clerk, House of Representatives and filed May 7, 1965, thus bypassing the office of the Governor. Measure submitted to the voters for decision at the November 8, 1966 state general election and was approved by the following vote: **For—416,630 Against—384,466.**
- *REFERENDUM BILL NO. 17 (Chapter 106, Laws of 1967—Water Pollution Control Facilities Bonds)**—Filed March 21, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: **For—845,372 Against—276,161.**
- *REFERENDUM BILL NO. 18 (Chapter 126, Laws of 1967 Extraordinary Session—Bonds for Outdoor Recreation)**—Filed May 3, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: **For—763,806 Against—354,646.**
- *REFERENDUM BILL NO. 19 (Chapter 148, Laws of 1967 Extraordinary Session—State Building Projects: Bond Issue)**—Filed May 10, 1967. Measure submitted to the voters for decision at the November 5, 1968 state general election and was approved by the following vote: **For—606,236 Against—458,358.**
- *REFERENDUM BILL NO. 20 (Chapter 3, Laws of 1970 Extraordinary Session—Changes in Abortion Law)**—Filed February 9, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: **For—599,959 Against—462,174.**
- *REFERENDUM BILL NO. 21 (Chapter 40, Laws of 1970 Extraordinary Session—Outdoor Recreation Bonds—Sales; Interest)**—Filed February 24, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: **For—520,162 Against—474,548.**
- REFERENDUM BILL NO. 22 (Chapter 66, Laws of 1970 Extraordinary Session—State Building Bonds—Sales; Interest)**—Filed February 24, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and failed to pass by the following vote: **For—399,608 Against—574,887.**
- *REFERENDUM BILL NO. 23 (Chapter 67, Laws of 1970 Extraordinary Session—Pollution Control Bonds—Sales; Interest)**—Filed February 24, 1970. Measure submitted to the voters for decision at the November 3, 1970 state general election and was approved by the following vote: **For—581,819 Against—414,976.**
- *REFERENDUM BILL NO. 24 (Chapter 82, Laws of 1972 Extraordinary Session—Lobbyists—Regulation, Registration and Reporting)**—Filed February 22, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—696,455 Against—576,404.**

REFERENDUM BILLS

- *REFERENDUM BILL NO. 25 (Chapter 98, Laws of 1972 Extraordinary Session—Regulating Certain Electoral Campaign Financing)**—Filed February 24, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—694,818 Against—574,856.**
- *REFERENDUM BILL NO. 26 (Chapter 127, Laws of 1972 Extraordinary Session—Bonds for Waste Disposal Facilities)**—Filed February 25, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—827,077 Against—489,459.**
- *REFERENDUM BILL NO. 27 (Chapter 128, Laws of 1972 Extraordinary Session—Bonds for Water Supply Facilities)**—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—790,063 Against—544,176.**
- *REFERENDUM BILL NO. 28 (Chapter 129, Laws of 1972 Extraordinary Session—Bonds for Public Recreation Facilities)**—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—758,530 Against—579,975.**
- *REFERENDUM BILL NO. 29 (Chapter 130, Laws of 1972 Extraordinary Session—Health, Social Service Facility Bonds)**—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following vote: **For—734,712 Against—594,172.**
- REFERENDUM BILL NO. 30 (Chapter 132, Laws of 1972 Extraordinary Session—Bonds for Public Transportation Improvements)**—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was rejected by the following vote: **Against—665,493 For—637,841.**
- *REFERENDUM BILL NO. 31 (Chapter 133, Laws of 1972 Extraordinary Session—Bonds for Community College Facilities)**—Filed February 28, 1972. Measure submitted to the voters for decision at the November 7, 1972 state general election and was approved by the following votes: **For—721,403 Against—594,963.**
- REFERENDUM BILL NO. 32 (Chapter 199, Laws of 1973 1st Extraordinary Session—Shall county auditors be required to appoint precinct committeemen of major political parties as deputy voting registrars upon their request?)**—Filed April 26, 1973. Measure submitted to the voters for decision at the November 6, 1973 state general election and was rejected by the following vote: **For—291,323 Against—609,306.**
- *REFERENDUM BILL NO. 33 (Chapter 200, Laws of 1973 1st Extraordinary Session—Shall personalized motor vehicle license plates be issued with resulting extra fees to be used exclusively for wildlife preservation?)**—Filed April 26, 1973. Measure submitted to the voters for decision at the November 6, 1973 state general election and was approved by the following vote: **For—613,921 Against—362,195.**
- REFERENDUM BILL NO. 34 (Chapter 152, Laws of 1974 Extraordinary Session—Shall a state lottery be conducted under gambling commission regulations with prizes totaling not less than 45% of gross income?)**—Filed April 26, 1974. Measure submitted to the voters for decision at the November 5, 1974 state general election, received the following vote: **For—515,404 Against—425,903,** and thus failed to be approved by a sixty percent majority of the voters voting on the measure, see state Constitution, Amendment 56 and AGLO 1974 No. 49.
- REFERENDUM BILL NO. 35 (Chapter 89, Laws of 1975 1st Extraordinary Session—Shall the Governor, in filling U.S. Senate vacancies, be limited to the same political party as the former incumbent?)**—Filed March 27, 1975. Measure submitted to the voters for decision at the November 4, 1975 state general election and was defeated by the following vote: **For—430,642 Against—501,894.**

REFERENDUM BILLS

- *REFERENDUM BILL NO. 36** (Chapter 104, Laws of 1975-'76 2nd Extraordinary Session— Shall certain appointed state officers be required to file reports of their financial affairs with the public disclosure commission?)—Filed March 19, 1976. Measure submitted to the voters for decision at the November 2, 1976 state general election and was approved by the following vote: **For—963,309 Against—419,693.**
- *REFERENDUM BILL NO. 37** (Chapter 221, Laws of 1979 Extraordinary Session, Shall \$25 Million in State General Obligation Bonds be Authorized for Facilities to Train, Rehabilitate and Care for Handicapped Persons?)—Filed June 11, 1979. Measure submitted to the voters for decision at the November 6, 1979 state general election and was approved by the following vote: **For—576,882 Against—286,365.**
- *REFERENDUM BILL NO. 38** (Chapter 234, Laws of 1979 Extraordinary Session, Shall \$125 Million in State General Obligation Bonds be Authorized for Planning, Acquisition, Construction and Improvement of Water Supply Facilities?)—Passed November 4, 1980. Measure submitted to the voters for decision at the state general election and was approved by the following vote: **For—1,008,646 Against—527,454.**
- *REFERENDUM BILL NO. 39** (Chapter 159, Laws of 1980, 46th Legislature, Shall \$450,000,000 in State General Obligation Bonds be Authorized for Planning, Designing, Acquiring, Constructing and Improving Public Waste Disposal Facilities?)—Passed November 4, 1980. Measure submitted to the voters for decision at the state general election and was approved by the following vote: **For—964,450 Against—558,328.**
- *REFERENDUM BILL NO. 40** (Chapter 1, Laws of 1986, 1st extraordinary session, Shall state officials continue challenges to the federal selection process for high-level nuclear waste repositories and shall a means be provided for voter disapproval of any Washington site?)—Filed August 1, 1986. Measure submitted to the voters for decision at the state general election and was approved by the following vote: **For—1,055,896 Against—222,141.**
- REFERENDUM BILL NO. 41** (Chapter 246, Laws of 1987, Regular Session, Shall the State challenge in the United States Supreme Court the constitutionality of authority delegated to the federal reserve system?)—Filed April 24, 1987. Measure submitted to the voters for decision at the state general election and was rejected by the following vote: **For—282,613 Against—541,387.**
- *REFERENDUM BILL NO. 42** (Chapter 54, Laws of 1991, Regular Session, Shall enhanced 911 emergency telephone dialing be provided throughout the state and be funded by a tax on telephone lines?)—Filed May 1, 1991. Measure submitted to the voters for decision at the state general election and was approved by the following vote: **For—901,854 Against—573,251.**
- *REFERENDUM BILL NO. 43** (Chapter 7, Laws of 1994, 1st Special Session, Shall taxes on sales of cigarettes, liquor, and pop syrup be extended to fund violence reduction and drug enforcement programs?)—Measure submitted to the voters for decision at the November 8, 1994 general election and was approved by the following vote: **For—947,847 Against—712,575.**
- REFERENDUM BILL NO. 44** (Chapter 225, Laws of 1994 and Chapter 364, Laws of 1995, Regular Session, Shall the alcohol fuel tax exemption given to fuel distributors be eliminated?)—Filed on April 1, 1994 and May 16, 1995. Measure was not submitted to voters because of court ruling.
- *REFERENDUM BILL NO. 45** (Chapter 2, Laws of 1995, 1st Special Session, Shall the fish and wildlife commission, rather than the governor, appoint the department's director and regulate food fish and shellfish?)—Filed on May 24, 1995. Measure submitted to the voters for decision at the November 7, 1995 general election and was approved by the following vote: **For—809,083 Against—517,433.**

REFERENDUM BILLS

REFERENDUM BILL NO. 46 (Section 2, Chapter 2, Laws of 1997, Regular Session, Relating to property taxes.)—Measure was not submitted to the voters as Referendum Bill No. 46, but was submitted as Referendum Bill No. 47.

***REFERENDUM BILL NO. 47 (Chapter 3, Laws of 1997, Regular Session, Shall property taxes be limited by modifying the 106 percent limit, allowing property valuation increases to be spread over time, and reducing the state levy?)**—Measure submitted to voters for decision at the November 4, 1997 general election and was approved by the following vote: **For—1,009,309 Against—579,620.**

***REFERENDUM BILL NO. 48 (Chapter 220, Laws of 1997, Regular Session, Shall a public stadium authority be authorized to build and operate a football/soccer stadium and exhibition center financed by tax revenues and private contributions?)**—Measure submitted to the voters for decision at the June 17, 1997 special election and was approved by the following vote: **For—820,364 Against—783,584.**

***REFERENDUM BILL NO. 49 (Chapter 321, Laws of 1998, Regular Session, Shall motor vehicle excise taxes be reduced and state revenues reallocated; \$1.9 billion in bonds for state and local highways approved; and spending limits modified?)**—Measure submitted to the voters for decision at the November 3, 1998 state general election and was approved by the following vote: **For—1,056,786 Against—792,783.**

***REFERENDUM BILL NO. 50 (Chapter 253, Laws of 2000, Regular Session, Shall the department of licensing be authorized to charge fees to geologists in sufficient amounts to cover the costs of licensing the geologist profession?)**—Filed on March 31, 2000. Measure was not submitted to voters because of court ruling.

HISTORY OF CONSTITUTIONAL AMENDMENTS ADOPTED SINCE STATEHOOD

- No. 1. Section 5, Article XVI. Re: **Permanent School Fund**. Adopted November, 1894.
- No. 2. Section 1, Article VI. Re: **Qualification of Electors**. Adopted November, 1896.
- No. 3. Section 2, Article VII. Re: **Uniform Rates of Taxation**. Adopted November, 1900.
- No. 4. Section 11, Article I. Re: **Religious Freedom**. Adopted November, 1904.
- No. 5. Section 1, Article VI. Re: **Equal Suffrage**. Adopted November, 1910.
- No. 6. Section 10, Article III. Re: **Succession in Office of Governor**. Adopted November, 1910.
- No. 7. Section 1, Article II. Re: **Initiative and Referendum**. Adopted November, 1912.
- No. 8. Adding Sections 33 and 34, Article I. Re: **Recall**. Adopted November, 1912.
- No. 9. Section 16, Article I. Re: **Taking of Private Property**. Adopted November, 1922.
- No. 10. Section 22, Article I. Re: **Right of Appeal**. Adopted November, 1922.
- No. 11. Section 4, Article VIII. Re: **Appropriation**. Adopted November, 1922.
- No. 12. Section 5, Article XI. Re: **Consolidation of County Offices**. Adopted November, 1924.
- No. 13. Section 15, Article II. Re: **Vacancies in the Legislature**. Adopted November, 1930.
- No. 14. Article VII. Re: **Revenue and Taxation**. Adopted November, 1930.
- No. 15. Section 1, Article XV. Re: **Harbors and Harbor Areas**. Adopted November, 1932.
- No. 16. Section 11, Article XII. Re: **Double Liability of Stockholders**. Adopted November, 1940.
- No. 17. Section 2, Article VII. Re: **40-Mill Tax Limit**. Adopted November, 1944.
- No. 18. Adding Section 40, Article II. Re: **Restriction of motor vehicle license fees and excise taxes on motor fuels to highway purposes only**. Adopted November, 1944.
- No. 19. Adding Section 3, Article VII. Re: **State to tax the United States and its instrumentalities to the extent that the laws of the United States will allow**. Adopted November, 1946.
- No. 20. Adding Section 1, Article XXVIII. Re: **Legislature to fix the salaries of state elective officials**. Adopted November, 1948.
- No. 21. Section 4, Article XI. Re: **Permit counties to adopt "Home Rule" charters**. Adopted November, 1948.
- No. 22. Repealing Section 7 of Article XI. Re: **County elective officials**. (These officials can now hold same office more than two terms in succession.) Adopted November, 1948.
- No. 23. Adding Section 16, Article XI. Re: **Permitting the formation, under a charter, of combined city and county municipal corporations having a population of 300,000 or more**. Adopted November, 1948.
- No. 24. Article II, Section 33. Re: **Permitting ownership of land by Canadians who are citizens of provinces wherein citizens of the State of Washington may own land**. (All provinces of Canada authorize such ownership.) Adopted November, 1950.
- No. 25. Adding Section 3(a), Article IV. Re: **Establishing Retirement Age for Judges of Supreme and Superior Courts**. Adopted November, 1952.
- No. 26. Adding Section 41, Article II. Re: **Permitting the Legislature to Amend Initiative Measures**. Adopted November, 1952.

HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

- No. 27. Section 6, Article VIII. Re: **Extending Bonding Powers of School Districts.** Adopted November, 1952.
- No. 28. Sections 6 and 10. Article IV. Re: **Increasing Monetary Jurisdiction of Justice Courts.** Adopted November, 1952.
- No. 29. Article II, Section 33. Rc: **Redefining "Alien," thereby permitting the Legislature to determine the policy of the state respecting the ownership of land by corporations having alien shareholders.** Adopted November, 1954.
- No. 30. Adding Section 1A, Article II. Re: **Increasing the number of signatures necessary to certify a state initiative or referendum measure.** Adopted November, 1956.
- No. 31. Section 25, Article III. Re: **Removing the restriction prohibiting the state treasurer from being elected for more than one successive term.** Adopted November, 1956.
- No. 32. Section 2, Article XV. Re: **Filling vacancies in the state legislature.** Adopted November, 1956.
- No. 33. Section 1, Article XXIV. Re: **Modification of state boundaries by compact.** Adopted November, 1958.
- No. 34. Section 11, Article I. Re: **Employment of chaplains at state institutions.** Adopted November, 1958.
- No. 35. Section 25, Article II. Re: **Pensions and Employees' Extra Compensation.** Adopted November, 1958.
- No. 36. Section 1, Article II by adding a new subsection (e). Re: **Publication and Distribution of Voters' Pamphlet.** Adopted November, 1962.
- No. 37. Section 1, Article XXIII. Re: **Publication of Proposed Constitutional Amendments.** Adopted November, 1962.
- No. 38. Adding Section 2(c), Article IV. Re: **Temporary Performance of Judicial Duties.** Adopted November, 1962.
- No. 39. Adding Section 42, Article II. Re: **Governmental Continuity During Emergency Periods.** Adopted November, 1962.
- No. 40. Section 10, Article XI. Re: **Lowering minimum population for first class cities from 20,000 to 10,000. Also changing newspaper publication requirements for proposed charters.** Adopted November, 1964.
- No. 41. Section 29, Article IV. Re: **Election of Superior Court Judges.** Adopted November, 1966.
- No. 42. Repealing Section 33, Article II and Amendments 24 and 29. Re: **Alien Ownership of Lands.** Adopted November, 1966.
- No. 43. Section 3, Article IX. Re: **Funds for Support of the Common Schools.** Adopted November, 1966.
- No. 44. Section 5, Article XVI. Re: **Investment of Permanent Common School Fund.** Adopted November, 1966.
- No. 45. Adding Section 8, Article VIII. Re: **Port Expenditures—Industrial Development—Promotion.** Adopted November, 1966.
- No. 46. Adding Section 1A, Article VI. Re: **Voter Qualifications for Presidential Elections.** Adopted November, 1966.

HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

- No. 47. Adding Section 10, Article VII. Re: **Retired Persons Property Tax Exemption.** Adopted November, 1966.
- No. 48. Section 3, Article VIII. Re: **Public Special Indebtedness, How Authorized.** Adopted November, 1966.
- No. 49. Adding Section 1, Article XXIX. Re: **Investments of Public Pension and Retirement Funds.** Adopted November, 1968.
- No. 50. Adding Section 30, Article IV. Re: **Court of Appeals.** Adopted November, 1968.
- No. 51. Adding Section 9, Article VIII. Re: **State Building Authority.** Adopted November, 1968.
- No. 52. Section 15, Article II. Re: **Vacancies in Legislature and in Partisan County Elective Office.** Also amending Section 6, Article XI. Re: **Vacancies in Township, Precinct or Road District Office.** Adopted November, 1968.
- No. 53. Adding Section 11, Article VII. Re: **Taxation Based on Actual Use.** Adopted November, 1968.
- No. 54. Adding Section I, Article XXX. Re: **Authorizing Compensation Increase During Term.** Adopted November, 1968.
- No. 55. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 56. Section 24, Article II. Re: **Lotteries and Divorce.** Adopted November, 1972.
- No. 57. Section 5, Article XI. Re: **County Government.** Adopted November, 1972.
- No. 58. Section 16, Article XI. Re: **Combined City-County.** Adopted November, 1972.
- No. 59. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1972.
- No. 60. Section 1, Article VIII. Re: **State Debt.** Also amending Section 3, Article VIII. Re: **Special Indebtedness, How Authorized.** Approved November, 1972.
- No. 61. Adding new Article XXXI. Re: **Sex Equality, Rights and Responsibilities.** Adopted November, 1972.
- No. 62. Section 12, Article III. Re: **Veto Power.** Adopted November, 1974.
- No. 63. Section I, Article VI. Re: **Qualifications of Electors.** Adopted November, 1974.
- No. 64. Section 2, Article VII. Re: **Limitation on Levies.** Adopted November, 1976.
- No. 65. Section 6, Article IV. Re: **Jurisdiction of Superior Courts.** Also amending Section 10, Article IV. Re: **Justices of the Peace.** Adopted November, 1976.
- No. 66. Section 18, Article XII. Re: **Rates for Transportation.** Adopted November, 1977.
- No. 67. Repealing Section 14, Article XII. Re: **Prohibition Against Combinations by Carriers.** Adopted November, 1977.
- No. 68. Section 12, Article II. Re: **Legislative Sessions, When—Duration.** Adopted November, 1979.
- No. 69. Section 13, Article II. Re: **Limitation on Members Holding Office in the State.** Adopted November, 1979.
- No. 70. Adding Section 10, Article VIII. Re: **Residential Energy Conservation.** Adopted November, 1979.
- No. 71. Adding Section 31, Article IV. Re: **Judicial Qualifications Commission—Removal, Censure, Suspension, or Retirement of Judges or Justices.** Adopted November, 1980.
- No. 72. Sections I and I(a), Article II. Re: **Legislative Powers, Where Vested and Initiative and Referendum, Signatures Required.** Adopted November, 1981.

HISTORY OF ADOPTED CONSTITUTIONAL AMDTS.

- No. 73. Adding Section 1, Article XXXII. Re: **Special Revenue Financing**. Adopted November, 1981.
- No. 74. Adding Section 43, Article II. Re: **Redistricting**. Adopted November, 1983.
- No. 75. Section 1, Article XXIX. Re: **May be Invested as Authorized by Law**. Adopted November, 1985.
- No. 76. Adding Section 11, Article VIII. Re: **Agricultural Commodity Assessments—Development, Promotion, and Hosting**. Adopted November, 1985.
- No. 77. Section 31, Article IV. Re: **Commission on Judicial Conduct—Removal, Censure, Suspension, or Retirement of Judges or Justices—Proceedings**. Adopted November, 1986.
- No. 78. Section 1, Article XXVIII. Re: **Salaries for Legislators, Elected State Officials, and Judges—Independent Commission—Referendum**. Adopted November, 1986.
- No. 79. Section 2, Article VII. Re: **Limitation on Levies**. Adopted November, 1986.
- No. 80. Section 7, Article IV. Re: **Exchange of judges—Judge Pro Tempore**. Adopted November, 1987.
- No. 81. Section 1, Article VII. Re: **Taxation**. Adopted November, 1988.
- No. 82. Section 10, Article VIII. Re: **Residential Energy Conservation**. Adopted November, 1988.
- No. 83. Section 3, Article VI. Re: **Who disqualified**. Also amending Section 1, Article XIII. Re: **Educational, reformatory and penal institutions**. Adopted November, 1988.
- No. 84. Adding Section 35, Article I. Re: **Victims of Crimes—Rights**. Adopted November, 1989.
- No. 85. Section 31, Article IV. Re: **Commission on Judicial Conduct**. Adopted November, 1989.
- No. 86. Section 10, Article VIII. Re: **Energy and Water Conservation Assistance**. Adopted November, 1989.
- No. 87. Section 6, Article IV. Re: **Jurisdiction of Superior Courts**. Adopted November, 1993.
- No. 88. Section 11, Article I. Re: **Religious Freedom**. Adopted November, 1993.
- No. 89. Section 3, Article 4. Re: **Election and Terms of Supreme Court Judges**. Adopted November, 1995.
- No. 90. Section 2, Article VII. Re: **Limitation on levies**. Adopted November, 1997.
- No. 91. Section 10, Article VIII. Re: **Energy, water, or stormwater or sewer services conservation assistance**. Adopted November, 1997.
- No. 92. Section 1, Article VIII. Re: **State debt**. Adopted November, 1999.
- No. 93. Section 1, Article XXIX. Re: **May be invested as authorized by law**. Adopted November, 2000.
- No. 94. Section 7, Article IV. Re: **Exchange of judges - Judge pro tempore**. Adopted November, 2001.