

**1994**

**SESSION LAWS**

OF THE

**STATE OF WASHINGTON**

REGULAR SESSION  
FIFTY-THIRD LEGISLATURE  
Convened January 10, 1994. Adjourned March 10, 1994.

1ST SPECIAL SESSION  
FIFTY-THIRD LEGISLATURE  
Convened March 11, 1994. Adjourned March 14, 1994.



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DENNIS W. COOPER  
Code Reviser

## WASHINGTON SESSION LAWS GENERAL INFORMATION

### 1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed successively in two editions:
- (i) a temporary pamphlet edition consisting of a series of one or more paper bound pamphlets, which are published as soon as possible following the session, at random dates as accumulated; followed by
  - (ii) a permanent bound edition containing the accumulation of all laws adopted in the legislative session. Both editions contain a subject index and tables indicating code sections affected.
- (b) *Temporary pamphlet edition—where and how obtained—price.* The temporary session laws may be ordered from the Statute Law Committee, Legislative Building, P.O. Box 40552, Olympia, Washington 98504-0552 at \$5.40 per set (5.00 plus \$.40 for state and local sales tax of 7.9%). All orders must be accompanied by payment.
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### 2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

Both editions of the session laws present the laws in the form in which they were 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 1994 regular session to be June 9, 1994 (midnight June 8th). The pertinent date for the Laws of the 1994 1st special session is June 13, 1994 (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 1994 laws may be found at the back of the final pamphlet edition and the permanent bound edition.

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## CHAPTER 241

[Substitute House Bill 2760]

## TRANSIT SYSTEMS—SALES AND USE TAX EQUALIZATION PAYMENTS

AN ACT Relating to authorizing sales and use tax equalization payments for transit systems; amending RCW 82.44.150; and adding a new section to chapter 82.14 RCW.

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

**Sec. 1.** RCW 82.44.150 and 1993 c 491 s 2 are each amended to read as follows:

(1) The director of licensing shall, on the twenty-fifth day of February, May, August, and November of each year, advise the state treasurer of the total amount of motor vehicle excise taxes imposed by RCW 82.44.020 (1) and (2) remitted to the department during the preceding calendar quarter ending on the last day of March, June, September, and December, respectively, except for those payable under RCW 82.44.030, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.020(3) and 82.44.030, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided by the department shall, from motor vehicle excise taxes deposited in the general fund, under RCW 82.44.110(1)(g), make the following deposits:

(a) To the high capacity transportation account created in RCW 47.78.010, a sum equal to four and five-tenths percent of the special excise tax levied under RCW 35.58.273 by those municipalities authorized to levy a special excise tax within (i) each county with a population of two hundred ten thousand or more and (ii) each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand except for those counties that do not border a county with a population as described in subsection (i) of this subsection;

(b) To the central Puget Sound public transportation account created in RCW 82.44.180, for revenues distributed after December 31, 1992, within a

county with a population of one million or more and a county with a population of from two hundred thousand to less than one million bordering a county with a population of one million or more, a sum equal to the difference between (i) the special excise tax levied and collected under RCW 35.58.273 by those municipalities authorized to levy and collect a special excise tax subject to the requirements of subsections (3) and (4) of this section and (ii) the special excise tax that the municipality would otherwise have been eligible to levy and collect at a tax rate of .815 percent and been able to match with locally generated tax revenues, other than the excise tax imposed under RCW 35.58.273, budgeted for any public transportation purpose. Before this deposit, the sum shall be reduced by an amount equal to the amount distributed under (a) of this subsection for each of the municipalities within the counties to which this subsection (2)(b) applies; however, any transfer under this subsection (2)(b) must be greater than zero;

(c) To the public transportation systems account created in RCW 82.44.180, for revenues distributed after December 31, 1992, within counties not described in (b) of this subsection, a sum equal to the difference between (i) the special excise tax levied and collected under RCW 35.58.273 by those municipalities authorized to levy and collect a special excise tax subject to the requirements of subsections (3) and (4) of this section and (ii) the special excise tax that the municipality would otherwise have been eligible to levy and collect at a tax rate of .815 percent and been able to match with locally generated tax revenues, other than the excise tax imposed under RCW 35.58.273, budgeted for any public transportation purpose. Before this deposit, the sum shall be reduced by an amount equal to the amount distributed under (a) of this subsection for each of the municipalities within the counties to which this subsection (2)(c) applies; however, any transfer under this subsection (2)(c) must be greater than zero; and

(d) To the general fund, for revenues distributed after June 30, 1993, and to the transportation fund, for revenues distributed after June 30, 1995, a sum equal to the difference between (i) the special excise tax levied and collected under RCW 35.58.273 by those municipalities authorized to levy and collect a special excise tax subject to the requirements of subsections (3) and (4) of this section and (ii) the special excise tax that the municipality would otherwise have been eligible to levy and collect at a tax rate of .815 percent notwithstanding the requirements set forth in subsections (3) through (6) of this section, reduced by an amount equal to distributions made under (a), (b), and (c) of this subsection and section 2 of this act.

(3) On the first day of the months of January, April, July, and October of each year, the state treasurer, based upon information provided by the department, shall remit motor vehicle excise tax revenues imposed and collected under RCW 35.58.273 as follows:

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding (i) the excise tax imposed

under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and (ii) the sales and use tax equalization distributions provided under section 2 of this act; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter, excluding the sales and use tax equalization distributions provided under section 2 of this act.

(4) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (3) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (3) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (3) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year excluding the sales and use tax equalization distributions provided under section 2 of this act. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

(5) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section and section 2 of this act shall be remitted without legislative appropriation.

(6) Any municipality levying and collecting a tax under RCW 35.58.273 which does not have an operating, public transit system or a contract for public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (3) of this section.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 82.14 RCW to read as follows:

Beginning with distributions made to municipalities under RCW 82.44.150 on January 1, 1996, municipalities as defined in RCW 35.58.272 imposing the

sales and use tax under RCW 82.14.045 shall be eligible for equalization payments from motor vehicle excise taxes distributed under RCW 82.44.150 as follows:

(1) Prior to January 1st of each year the department of revenue shall determine the total and the per capita levels of revenues for each municipality imposing the sales and use tax authorized under RCW 82.14.045 and the state-wide weighted average per capita level of sales and use tax revenues imposed under chapters 82.08 and 82.12 RCW for the previous calendar year calculated for a tax rate of one-tenth percent.

(2) For each tenth of one percent of sales and use tax imposed under RCW 82.14.045, the state treasurer shall apportion to each municipality receiving less than eighty percent of the state-wide weighted average per capita level of sales and use tax revenues imposed under chapters 82.08 and 82.12 RCW as determined by the department of revenue under subsection (1) of this section, an amount when added to the per capita level of revenues received the previous calendar year by the municipality, to equal eighty percent of the state-wide weighted average per capita level of revenues determined under subsection (1) of this section. In no event may the sales and use tax equalization distribution to a municipality in a single calendar year exceed fifty percent of the amount of sales and use tax collected under RCW 82.14.045 during the prior calendar year.

(3) For a municipality established after January 1, 1995, sales and use tax equalization distributions shall be made according to the procedures in this subsection. Sales and use tax equalization distributions to eligible new municipalities shall be made at the same time as distributions are made under subsection (2) of this section. The department of revenue shall follow the estimating procedures outlined in this subsection until the new municipality has received a full year's worth of revenues under RCW 82.14.045 as of the January sales and use tax equalization distribution.

(a) Whether a newly established municipality determined to receive funds under this subsection receives its first equalization payment at the January, April, July, or October sales and use tax equalization distribution shall depend on the date the system first imposes the tax authorized under RCW 82.14.045.

(i) A newly established municipality imposing the tax authorized under RCW 82.14.045 taking effect during the first calendar quarter shall be eligible to receive funds under this subsection beginning with the July sales and use tax equalization distribution of that year.

(ii) A newly established municipality imposing the tax authorized under RCW 82.14.045 taking effect during the second calendar quarter shall be eligible to receive funds under this subsection beginning with the October sales and use tax equalization distribution of that year.

(iii) A newly established municipality imposing the tax authorized under RCW 82.14.045 taking effect during the third calendar quarter shall be eligible to receive funds under this subsection beginning with the January sales and use tax equalization distribution of the next year.



(iv) A newly established municipality imposing the tax authorized under RCW 82.14.045 taking effect during the fourth calendar quarter shall be eligible to receive funds under this subsection beginning with the April sales and use tax equalization distribution of the next year.

(b) For purposes of calculating the amount of funds the new municipality should receive under this subsection, the department of revenue shall:

(i) Estimate the per capita amount of revenues from the tax authorized under RCW 82.14.045 that the new municipality would have received had the municipality received revenues from the tax the entire calendar year;

(ii) Calculate the amount provided under subsection (2) of this section based on the per capita revenues determined under (b)(i) of this subsection;

(iii) Prorate the amount determined under (b)(ii) of this subsection by the number of months the tax authorized under RCW 82.14.045 is imposed.

(c) The department of revenue shall advise the state treasurer of the amounts calculated under (b) of this subsection and the state treasurer shall distribute these amounts to the new municipality from the motor vehicle excise tax distributed under RCW 82.44.150(2)(d).

(d) Revenues estimated under this subsection shall not affect the calculation of the state-wide weighted average per capita level of revenues for all municipalities made under subsection (1) of this section.

(4) For an existing municipality imposing the sales and use tax authorized under RCW 82.14.045 to take effect after January 1, 1995, sales and use tax equalization payments shall be made according to the procedures for newly established municipalities in subsection (3) of the section.

(5) A municipality that reduces its sales and use tax rate under RCW 82.14.045 after January 1, 1994, may not receive distributions under this section.

Passed the House March 9, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 242

[House Bill 2812]

### ENERGY CONSERVATION IN SELECTED PUBLIC BUILDINGS

AN ACT Relating to energy conservation in design of public facilities; and amending RCW 39.35.030, 39.35.040, and 39.35.050.

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

**Sec. 1.** RCW 39.35.030 and 1991 c 201 s 14 are each amended to read as follows:

For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Office" means the Washington state energy office.

(3) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(4) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(5) "Renovation" means additions, alterations, or repairs within any twelve-month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(6) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(7) "Life-cycle cost" means the initial cost and cost of operation of a major facility over its economic life. This shall be calculated as the initial cost plus the operation, maintenance, and energy costs over its economic life, reflecting anticipated increases in these costs discounted to present value at the current rate for borrowing public funds, as determined by the office of financial management. The energy cost projections used shall be those provided by the state energy office. The office shall update these projections at least every two years.

(8) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

- (a) The coordination and positioning of a major facility on its physical site;
- (b) The amount and type of fenestration employed in a major facility;
- (c) The amount of insulation incorporated into the design of a major facility;
- (d) The variable occupancy and operating conditions of a major facility; and
- (e) An energy-consumption analysis of a major facility.

(9) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(10) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy-consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives, at least one of which shall include renewable energy systems;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results.

(11) "Renewable energy systems" means methods of facility design and construction and types of equipment for the utilization of renewable energy sources including, but not limited to, active or passive solar space heating or cooling, domestic solar water heating, windmills, waste heat, biomass and/or refuse-derived fuels, photovoltaic devices, and geothermal energy.

(12) "Cogeneration" means the sequential generation of two or more forms of energy from a common fuel or energy source. Where these forms are electricity and thermal energy, then the operating and efficiency standards established by 18 C.F.R. Sec. 292.205 and the definitions established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991, shall apply.

(13) "Selected buildings" means educational, office, residential care, and correctional facilities that are designed to comply with the design standards analyzed and recommended by the office.

(14) "Design standards" means the heating, air-conditioning, ventilating, and renewable resource systems identified, analyzed, and recommended by the office as providing an efficient energy system or systems based on the economic life of the selected buildings.

**Sec. 2.** RCW 39.35.040 and 1982 c 159 s 4 are each amended to read as follows:

~~((On and after September 8, 1975))~~ Whenever a public agency determines that any major facility is to be constructed or renovated, such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis conforming with the guidelines developed in RCW 39.35.050 to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility.

Nothing in this section prohibits the construction or renovation of major facilities which utilize renewable energy systems.

**Sec. 3.** RCW 39.35.050 and 1991 c 201 s 15 are each amended to read as follows:

The office, in consultation with affected public agencies, shall develop and issue guidelines for administering this chapter. The purpose of the guidelines is to define a procedure and method for performance of life-cycle cost analysis to promote the selection of low-life-cycle cost alternatives. At a minimum, the guidelines must contain provisions that:

- (1) Address energy considerations during the planning phase of the project;
- (2) Identify energy components and system alternatives including renewable energy systems and cogeneration applications prior to commencing the energy consumption analysis;

(3) Identify simplified methods to assure the lowest life-cycle cost alternatives for selected buildings with between twenty-five thousand and one hundred thousand square feet of usable floor area;

(4) Establish times during the design process for preparation, review, and approval or disapproval of the life-cycle cost analysis;

((4)) (5) Specify the assumptions to be used for escalation and inflation rates, equipment service lives, economic building lives, and maintenance costs;

((5)) (6) Determine life-cycle cost analysis format and submittal requirements to meet the provisions of chapter 201, Laws of 1991;

((6)) (7) Provide for review and approval of life-cycle cost analysis.

Passed the House February 10, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 243

[Substitute House Bill 2813]

### PUBLIC CONTRACTS—BIDDING PROCEDURES AND REQUIREMENTS REVISED—NATURAL RESOURCES AGENCIES

AN ACT Relating to public contracts; amending RCW 39.04.020 and 39.04.150; and providing an effective date.

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

**Sec. 1.** RCW 39.04.020 and 1993 c 379 s 111 are each amended to read as follows:

Whenever the state or any municipality shall determine that any public work is necessary to be done, it shall cause plans, specifications, or both thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board, or agency having by law the authority to require such work to be done. The plans, specifications, and estimates of cost shall be approved by the director, supervisor, commissioner, trustee, board, or agency and the original draft or a certified copy filed in such office before further action is taken.

If the state or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract or by a small works roster process, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of ~~((fifteen))~~ twenty-five thousand dollars ~~((or the amounts specified in RCW 28B.10.350 or 28B.10.355 for colleges and universities, or the amounts specified in RCW 28B.50.330 or 39.04.150 for community colleges and technical colleges)),~~ then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be

done(~~(- PROVIDED, That)~~). When any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work.

**Sec. 2.** RCW 39.04.150 and 1993 c 379 s 112 are each amended to read as follows:

(1) As used in this section, "agency" means the department of general administration, the department of ~~((fisheries, the department of))~~ fish and wildlife, the department of natural resources, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than ~~((fifty))~~ one hundred thousand dollars(~~(- or less than one hundred thousand dollars for projects managed by the department of general administration for community colleges and technical colleges, as defined under chapter 28B.50 RCW,))~~) are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen ~~((by random number generated by computer))~~ from the ~~((contractors on the))~~ small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency ~~((is unable to solicit))~~ does not receive at least two responsive quotations ~~((from five qualified contractors on the small works roster))~~ for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations ~~((randomly))~~ from contractors ~~((on))~~ selected randomly from the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster(~~(- PROVIDED, That whenever possible,))~~). The agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request. If the work is executed by competitive bid, the agency shall invite at least one proposal each from a certified minority and a certified women-owned contractor who shall otherwise qualify to perform such work.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section.

NEW SECTION. Sec. 3. Section 2 of this act shall take effect July 1, 1994.

Passed the House February 11, 1994.  
Passed the Senate March 4, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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**CHAPTER 244**

[House Bill 2849]

**NONSALMON DELIVERY LICENSE—RESIDENCY REQUIREMENT EXCEPTION**

AN ACT Relating to nonsalmon delivery licenses; and amending RCW 75.28.020.

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

**Sec. 1.** RCW 75.28.020 and 1993 c 340 s 4 are each amended to read as follows:

(1) Except as otherwise provided in this title, a person as defined in RCW 75.08.011 may hold a commercial license established by this chapter.

(2) Except as otherwise provided in this title, an individual may hold a commercial license only if the individual is sixteen years of age or older and a bona fide resident of the United States.

(3) A corporation may hold a commercial license only if it is authorized to do business in this state.

(4) No person may hold a limited-entry license unless the person meets the qualifications that this title establishes for the license.

(5) The residency requirements in subsection (2) of this section do not apply to holders of nonsalmon delivery licenses.

Passed the House February 9, 1994.  
Passed the Senate March 3, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 245

[Engrossed Substitute House Bill 2850]

### EDUCATION—STUDENT LEARNING IMPROVEMENT GRANTS—TECHNOLOGY PLAN—BASIC VALUES AND CHARACTER TRAITS

AN ACT Relating to education; amending RCW 28A.300.138, 28A.650.015, 28A.630.952, 28A.170.060, 28A.175.070, 28A.230.070, 28A.300.150, and 28A.150.230; amending 1993 c 336 s 704 (uncodified); amending 1992 c 141 s 508 (uncodified); amending 1993 c 336 s 1007 (uncodified); reenacting RCW 28A.630.885; adding a new section to chapter 28A.150 RCW; repealing RCW 28A.300.140, 28A.610.060, and 28A.615.050; 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 28A.300.138 and 1993 c 336 s 301 are each amended to read as follows:

(1)(a) To the extent funds are appropriated, the office of the superintendent of public instruction shall provide student learning improvement grants for the 1994-95 through 1996-97 school years. The purpose of the grants is to provide funds for additional time and resources for site-based planning activities and staff development and planning intended to improve student learning for all students, including students with diverse needs, consistent with the student learning goals in RCW 28A.150.210.

(b) State evaluations and findings on the schools for the twenty-first century program, as well as national research, indicate that extra time for site-based planning activities and staff development and planning for school improvement efforts is critical to the success of such efforts. It is the intent of the legislature that school districts use the funds under this section to provide time and resources for site-based planning activities and staff development and planning that is in addition to locally funded extra time and resources provided for purposes of improving student learning. Districts are strongly encouraged not to supplant local funds with state funds provided under this section.

(2) To be eligible for student learning improvement grants, school district boards of directors shall:

(a) Adopt a policy regarding the ~~((sharing of instructional decisions with))~~ involvement of school staff, parents, and community members in instructional decisions;

(b) Submit school-based applications that have been developed by school building personnel, parents, and community members. Each application shall:

(i) Enumerate specific activities to be carried out as part of the grant;  
(ii) Identify the technical resources desired and availability of those resources;

(iii) Include a proposed budget; and

(iv) Indicate that the application was approved by the school principal and representatives of teachers, classified employees, parents, and the community.

(3) The school board shall conduct at least one public hearing on schools' plans for using the grants before the board approves the plans. Boards may hear and approve more than one school's plan at a hearing. The board shall only submit applications for grants to the superintendent of public instruction if the board has approved the plans.

(4) If the application is consistent with the purposes of the grant program and the requirements of subsections (2) and (3) of this section are met, the superintendent of public instruction shall approve the grant application.

(5) To the extent funds are appropriated, and for allocation purposes only, the amount of grants for the 1994-95, 1995-96, and 1996-97 school years shall be based on time equivalent to ~~((no fewer than three days and not more than five days))~~ up to four days depending upon the number of grant applications received and on the number of full-time equivalent certificated staff ~~((classified instructional aides, and classified secretaries))~~ who work in the school ~~((at the time of application. For the 1995-96 and 1996-97 school years, the equivalent of five days annually shall be provided. The allocation per full-time equivalent staff shall be determined in the biennial operating appropriations act)).~~ Funds from the grant may be used to pay for staff development and planning for certificated and classified staff and site-based planning activities. Site-based planning activities and staff development and planning conducted pursuant to this section also may be conducted during the months of July and August preceding each school year for which the school has received a grant. Expenses occurring as a result of these summer site-based planning activities and staff development and planning may be paid from the school year grant. School districts shall use all funds received under this section solely for grants to schools and shall not use any portion of the funds for indirect costs.

(6) The state schools for the deaf and blind may apply for grants under this section.

(7) The superintendent of public instruction shall adopt timelines and rules as necessary under chapter 34.05 RCW to administer the program. The superintendent may modify application requirements for schools that have schools for the twenty-first century projects under RCW 28A.630.100. ~~((A copy of the proposed rules shall be submitted to the joint select committee on education restructuring established in RCW 28A.630.950 at least forty-five days prior to adoption of the rules.))~~

(8) The superintendent of public instruction shall report annually to the legislature by December 1st the following information:

(a) The use of the funds granted under this section;

(b) An estimate of any increase in staff development and planning in the 1994-95, 1995-96, and 1996-97 school years respectively, above that in the 1993-94 school year; and



(c) An estimate of any increase in site-based planning activities in the 1994-95, 1995-96, and 1996-97 school years respectively, above that in the 1993-94 school year.

(9) Funding under this section shall not become a part of the state's basic program of education obligation as set forth under Article IX of the state Constitution.

**Sec. 2.** RCW 28A.650.015 and 1993 c 336 s 703 are each amended to read as follows:

(1) The superintendent of public instruction, to the extent funds are appropriated, shall develop and implement a Washington state K-12 education technology plan. The technology plan, which shall be completed by ~~((December 15, 1993))~~ September 1, 1994, and updated on at least a biennial basis, shall be developed to coordinate and expand the use of education technology in the common schools of the state. The plan shall be consistent with applicable provisions of chapter 43.105 RCW. The plan, at a minimum, shall address:

(a) The provision of technical assistance to schools and school districts for the planning, implementation, and training of staff in the use of technology in curricular and administrative functions;

(b) The continued development of a network to connect school districts, institutions of higher learning, and other sources of on-line information; and

(c) Methods to equitably increase the use of education technology by students and school personnel throughout the state.

(2) The superintendent of public instruction shall appoint an educational technology advisory committee to assist in the development and implementation of the technology plan in subsection (1) of this section. The committee shall include, but is not limited to, persons representing: The state board of education, the commission on student learning, the department of information services, educational service districts, school directors, school administrators, school principals, teachers, classified staff, higher education faculty, parents, students, business, labor, scientists and mathematicians, the higher education coordinating board, the work force training and education coordinating board, and the state library.

**Sec. 3.** 1993 c 336 s 704 (uncodified) is amended to read as follows:

In conjunction with the plan required in section 703 of this act, the superintendent of public instruction shall prepare recommendations to the legislature regarding the development of a grant program for school districts for the purchase and installation of computers, computer software, telephones, and other types of education technology. The recommendations shall address methods to ensure equitable access to technology by students throughout the state, and methods to ensure that school districts have prepared technology implementation plans before applying for grant funds. The recommendations, with proposed legislation, shall be submitted to the appropriate committees of the legislature by ~~((December 15, 1993))~~ September 1, 1994.

**Sec. 4.** RCW 28A.630.952 and 1993 c 336 s 1003 are each amended to read as follows:

(1) In addition to the duties in RCW 28A.630.951, the joint select committee on education restructuring shall review all laws pertaining to K-12 public education and to educator preparation and certification(~~(, except those that protect the health, safety, and civil rights of students and staff,))~~) with the intent of identifying laws that inhibit the achievement of the new system of performance-based education. The select committee shall report to the legislature by November 15, 1994. The laws pertaining to home schooling and private schools shall not be reviewed in this study.

(2) The joint select committee on education restructuring shall review current school district data reporting requirements for the purposes of accountability and meeting state information needs. The joint select committee shall report to the legislature by January ~~((1995))~~ 1996 on:

(a) What data is necessary to compare how school districts are performing before the essential academic learning requirements and the assessment system are implemented with how school districts are performing after the essential academic learning requirements and the assessment system are implemented; and

(b) What data is necessary pertaining to school district reports under the accountability systems developed by the commission on student learning under RCW 28A.630.885(3)(h).

**Sec. 5.** RCW 28A.170.060 and 1989 c 271 s 113 are each amended to read as follows:

The superintendent of public instruction(~~(, through the state clearinghouse for education information,))~~) shall collect and disseminate to all school districts and other interested parties information about effective substance abuse programs and the penalties for manufacturing, selling, delivering, or possessing controlled substances on or within one thousand feet of a school or school bus route stop under RCW 69.50.435 and distributing a controlled substance to a person under the age of eighteen under RCW 69.50.406.

**Sec. 6.** RCW 28A.175.070 and 1987 c 518 s 219 are each amended to read as follows:

The superintendent of public instruction(~~(, through the state clearinghouse for education information,))~~) shall collect and disseminate to all school districts and other interested parties information about effective student motivation, retention, and retrieval programs.

**Sec. 7.** RCW 28A.230.070 and 1988 c 206 s 402 are each amended to read as follows:

(1) The life-threatening dangers of acquired immunodeficiency syndrome (AIDS) and its prevention shall be taught in the public schools of this state. AIDS prevention education shall be limited to the discussion of the life-threatening dangers of the disease, its spread, and prevention. Students shall

receive such education at least once each school year beginning no later than the fifth grade.

(2) Each district board of directors shall adopt an AIDS prevention education program which is developed in consultation with teachers, administrators, parents, and other community members including, but not limited to, persons from medical, public health, and mental health organizations and agencies so long as the curricula and materials developed for use in the AIDS education program either (a) are the model curricula and resources under subsection (3) of this section, or (b) are developed by the school district and approved for medical accuracy by the office on AIDS established in RCW 70.24.250. If a district elects to use curricula developed by the school district, the district shall submit to the office on AIDS a copy of its curricula and an affidavit of medical accuracy stating that the material in the district-developed curricula has been compared to the model curricula for medical accuracy and that in the opinion of the district the district-developed materials are medically accurate. Upon submission of the affidavit and curricula, the district may use these materials until the approval procedure to be conducted by the office of AIDS has been completed.

(3) Model curricula and other resources available from the superintendent of public instruction (~~(through the state clearinghouse for educational information)~~) may be reviewed by the school district board of directors, in addition to materials designed locally, in developing the district's AIDS education program. The model curricula shall be reviewed for medical accuracy by the office on AIDS established in RCW 70.24.250 within the department of social and health services.

(4) Each school district shall, at least one month before teaching AIDS prevention education in any classroom, conduct at least one presentation during weekend and evening hours for the parents and guardians of students concerning the curricula and materials that will be used for such education. The parents and guardians shall be notified by the school district of the presentation and that the curricula and materials are available for inspection. No student may be required to participate in AIDS prevention education if the student's parent or guardian, having attended one of the district presentations, objects in writing to the participation.

(5) The office of the superintendent of public instruction with the assistance of the office on AIDS shall update AIDS education curriculum material as newly discovered medical facts make it necessary.

(6) The curriculum for AIDS prevention education shall be designed to teach students which behaviors place a person dangerously at risk of infection with the human immunodeficiency virus (HIV) and methods to avoid such risk including, at least:

(a) The dangers of drug abuse, especially that involving the use of hypodermic needles; and

(b) The dangers of sexual intercourse, with or without condoms.

(7) The program of AIDS prevention education shall stress the life-threatening dangers of contracting AIDS and shall stress that abstinence from sexual activity is the only certain means for the prevention of the spread or contraction of the AIDS virus through sexual contact. It shall also teach that condoms and other artificial means of birth control are not a certain means of preventing the spread of the AIDS virus and reliance on condoms puts a person at risk for exposure to the disease.

**Sec. 8.** RCW 28A.300.150 and 1987 c 489 s 2 are each amended to read as follows:

The superintendent of public instruction shall collect and disseminate to school districts information on child abuse and neglect prevention curriculum (~~(through the state clearinghouse for education information)~~). The superintendent of public instruction and the departments of social and health services and community, trade, and economic development shall share relevant information.

**Sec. 9.** RCW 28A.150.230 and 1991 c 61 s 1 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program needs;

(c) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules and regulations of the state board of education;

(d) Determine the allocation of staff time, whether certificated or classified;

(e) Establish final curriculum standards consistent with law and rules and regulations of the state board of education, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

(f) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

~~((3) In keeping with the accountability purpose expressed in this section and to insure that the local community and electorate have access to information on the educational programs in the school districts, each school district's board of directors shall annually publish a descriptive guide to the district's common schools. This guide shall be made available at each school in the district for examination by the public. The guide shall include, but not be limited to, the following:~~

~~(a) Criteria used for written evaluations of staff members pursuant to RCW 28A.405.100;~~

~~(b) A summary of program objectives pursuant to RCW 28A.320.210;~~

~~(c) Results of comparable testing for all schools within the district; and~~

~~(d) Budget information which will include the following:~~

~~(i) Student enrollment;~~

~~(ii) Number of full-time equivalent personnel per school in the district itemized according to classroom teachers, instructional support, and building administration and support services, including itemization of such personnel by program;~~

~~(iii) Number of full-time equivalent personnel assigned in the district to central administrative offices, itemized according to instructional support, building and central administration, and support services, including itemization of such personnel by program;~~

~~(iv) Total number of full-time equivalent personnel itemized by classroom teachers, instructional support, building and central administration, and support services, including itemization of such personnel by program; and~~

~~(v) Special levy budget request presented by program and expenditure for purposes over and above those requirements identified in RCW 28A.150.220.))~~

NEW SECTION. Sec. 10. A new section is added to chapter 28A.150 RCW, to be codified immediately following RCW 28A.150.210, to read as follows:

The legislature also recognizes that certain basic values and character traits are essential to individual liberty, fulfillment, and happiness. However, these values and traits are not intended to be assessed or be standards for graduation. The legislature intends that local communities have the responsibility for determining how these values and character traits are learned as determined by consensus at the local level. These values and traits include the importance of:

(1) Honesty, integrity, and trust;

(2) Respect for self and others;

(3) Responsibility for personal actions and commitments;

(4) Self-discipline and moderation;

(5) Diligence and a positive work ethic;

- (6) Respect for law and authority;
- (7) Healthy and positive behavior; and
- (8) Family as the basis of society.

**Sec. 11.** 1992 c 141 s 508 (uncodified) is amended to read as follows:

Section 302 (~~(of this act)~~), chapter 141, Laws of 1992 shall expire September 1, ~~((1998. However, this section shall not take effect if, by September 1, 1998))~~ 2000, unless by September 1, 2000, a law is enacted stating that a school accountability and academic assessment system is not in place.

**Sec. 12.** 1993 c 336 s 1007 (uncodified) is amended to read as follows:

(1) A legislative fiscal study committee is hereby created. The committee shall be comprised of three members from each caucus of the senate, appointed by the president of the senate, and three members from each caucus of the house of representatives, appointed by the speaker of the house of representatives. In consultation with the office of the superintendent of public instruction, the committee shall study the common school funding system.

(2) By ~~((January 16))~~ December 15, 1995, the committee shall report to the full legislature on its findings and any recommendations for a new funding model for the common school system.

(3) This section shall expire ~~((January 16))~~ December 31, 1995.

**Sec. 13.** RCW 28A.630.885 and 1993 c 336 s 202 and 1993 c 334 s 1 are each reenacted to read as follows:

(1) The Washington commission on student learning is hereby established. The primary purposes of the commission are to identify the knowledge and skills all public school students need to know and be able to do based on the student learning goals in RCW 28A.150.210, to develop student assessment and school accountability systems, and to take other steps necessary to develop a performance-based education system. The commission shall include three members of the state board of education, three members appointed by the governor before July 1, 1992, and five members appointed no later than June 1, 1993, by the governor elected in the November 1992 election. The governor shall appoint a chair from the commission members, and fill any vacancies in gubernatorial appointments that may occur. The state board of education shall fill any vacancies of state board of education appointments that may occur. In making the appointments, educators, business leaders, and parents shall be represented, and nominations from state-wide education, business, and parent organizations shall be requested. Efforts shall be made to ensure that the commission reflects the racial and ethnic diversity of the state's K-12 student population and that the major geographic regions in the state are represented. Appointees shall be qualified individuals who are supportive of educational restructuring, who have a positive record of service, and who will devote sufficient time to the responsibilities of the commission to ensure that the objectives of the commission are achieved.

(2) The commission shall establish advisory committees. Membership of the advisory committees shall include, but not necessarily be limited to, professionals from the office of the superintendent of public instruction and the state board of education, and other state and local educational practitioners and student assessment specialists.

(3) The commission, with the assistance of the advisory committees, shall:

(a) Develop essential academic learning requirements based on the student learning goals in RCW 28A.150.210. Essential academic learning requirements shall be developed, to the extent possible, for each of the student learning goals in RCW 28A.150.210. Goals one and two shall be considered primary. Essential academic learning requirements for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be completed no later than March 1, 1995. Essential academic learning requirements that incorporate the remainder of RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be completed no later than March 1, 1996. To the maximum extent possible, the commission shall integrate goal four and the knowledge and skill areas in the other goals in the development of the essential academic learning requirements;

(b)(i) The commission shall present to the state board of education and superintendent of public instruction a state-wide academic assessment system for use in the elementary, middle, and high school years designed to determine if each student has mastered the essential academic learning requirements identified in (a) of this subsection. The academic assessment system shall include a variety of assessment methods, including performance-based measures that are criterion-referenced. Performance standards for determining if a student has successfully completed an assessment shall be initially determined by the commission in consultation with the advisory committees required in subsection (2) of this section.

(ii) The assessment system shall be designed so that the results under the assessment system are used by educators as tools to evaluate instructional practices, and to initiate appropriate educational support for students who have not mastered the essential academic learning requirements at the appropriate periods in the student's educational development.

(iii) Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210(1), goal one, and the mathematics component of RCW 28A.150.210(2), goal two, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1996-97 school year, unless the legislature takes action to delay or prevent implementation of the assessment system and essential academic learning requirements. Assessments measuring the essential academic learning requirements developed for RCW 28A.150.210 (2), (3), and (4), goals two, three, and four, shall be initially implemented by the state board of education and superintendent of public instruction no later than the 1997-98 school year, unless the legislature takes action to delay or prevent implementation of the assessment

system and essential academic learning requirements. To the maximum extent possible, the commission shall integrate knowledge and skill areas in development of the assessments.

(iv) Before the 2000-2001 school year, participation by school districts in the assessment system shall be optional. School districts that desire to participate before the 2000-2001 school year shall notify the superintendent of public instruction in a manner determined by the superintendent. Beginning in the 2000-2001 school year, all school districts shall be required to participate in the assessment system.

(v) The state board of education and superintendent of public instruction may modify the essential academic learning requirements and academic assessment system, as needed, in subsequent school years.

(vi) The commission shall develop assessments that are directly related to the essential academic learning requirements, and are not biased toward persons with different learning styles, racial or ethnic backgrounds, or on the basis of gender;

(c) After a determination is made by the state board of education that the high school assessment system has been implemented and that it is sufficiently reliable and valid, successful completion of the high school assessment shall lead to a certificate of mastery. The certificate of mastery shall be obtained by most students at about the age of sixteen, and is evidence that the student has successfully mastered the essential academic learning requirements during his or her educational career. The certificate of mastery shall be required for graduation but shall not be the only requirement for graduation. The commission shall make recommendations to the state board of education regarding the relationship between the certificate of mastery and high school graduation requirements. Upon achieving the certificate of mastery, schools shall provide students with the opportunity to continue to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include, but are not limited to, programs such as work-based learning, school-to-work transition, tech prep, vocational-technical education, running start, and preparation for technical college, community college, or university education;

(d) Consider methods to address the unique needs of special education students when developing the assessments in (b) and (c) of this subsection;

(e) Consider methods to address the unique needs of highly capable students when developing the assessments in (b) and (c) of this subsection;

(f) Develop recommendations on the time, support, and resources, including technical assistance, needed by schools and school districts to help students achieve the essential academic learning requirements. These recommendations shall include an estimate for the legislature, superintendent of public instruction, and governor on the expected cost of implementing the academic assessment system;



(g) Develop recommendations for consideration by the higher education coordinating board for adopting college and university entrance requirements for public school students that are consistent with the essential academic learning requirements and the certificate of mastery;

(h) By December 1, 1998, recommend to the legislature, governor, state board of education, and superintendent of public instruction:

(i) A state-wide accountability system to monitor and evaluate accurately and fairly the level of learning occurring in individual schools and school districts. The accountability system shall be designed to recognize the characteristics of the student population of schools and school districts such as gender, race, ethnicity, socioeconomic status, and other factors. The system shall include school-site, school district, and state-level accountability reports;

(ii) A school assistance program to help schools and school districts that are having difficulty helping students meet the essential academic learning requirements;

(iii) A system to intervene in schools and school districts in which significant numbers of students persistently fail to learn the essential academic learning requirements; and

(iv) An awards program to provide incentives to school staff to help their students learn the essential academic learning requirements, with each school being assessed individually against its own baseline. Incentives shall be based on the rate of percentage change of students achieving the essential academic learning requirements. School staff shall determine how the awards will be spent.

It is the intent of the legislature to begin implementation of programs in this subsection (3)(h) on September 1, 2000;

(i) Report annually by December 1st to the legislature, the governor, the superintendent of public instruction, and the state board of education on the progress, findings, and recommendations of the commission; and

(j) Make recommendations to the legislature and take other actions necessary or desirable to help students meet the student learning goals.

(4) The commission shall coordinate its activities with the state board of education and the office of the superintendent of public instruction.

(5) The commission shall seek advice broadly from the public and all interested educational organizations in the conduct of its work, including holding periodic regional public hearings.

(6) The commission shall select an entity to provide staff support and the office of the superintendent of public instruction shall provide administrative oversight and be the fiscal agent for the commission. The commission may direct the office of the superintendent of public instruction to enter into subcontracts, within the commission's resources, with school districts, teachers, higher education faculty, state agencies, business organizations, and other individuals and organizations to assist the commission in its deliberations.

(7) Members of the commission shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

- (1) RCW 28A.300.140 and 1990 c 33 s 256 & 1987 c 119 s 1;
- (2) RCW 28A.610.060 and 1987 c 518 s 109; and
- (3) RCW 28A.615.050 and 1987 c 518 s 305.

NEW SECTION. Sec. 15. Section 10 of this act shall take effect September 1, 1994.

NEW SECTION. Sec. 16. Section 4 of this act shall expire December 1, 2001.

NEW SECTION. Sec. 17. Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

- Passed the House March 9, 1994.
- Passed the Senate March 9, 1994.
- Approved by the Governor April 1, 1994.
- Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 246**

[Substitute House Bill 2891]

**SCHOOL-SPONSORED NONPAID WORK FOR STUDENTS—INDUSTRIAL INSURANCE MEDICAL AID COVERAGE**

AN ACT Relating to school district-sponsored, nonpaid, work-based learning experiences; adding a new section to chapter 51.12 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 51.12 RCW to read as follows:

(1) An employer covered under this title may elect to include student volunteers as employees or workers for all purposes relating to medical aid benefits under chapter 51.36 RCW. The employer shall give notice of its intent to cover all of its student volunteers to the director prior to the occurrence of the injury or contraction of an occupational disease.

(2) A student volunteer is an enrolled student in a public school as defined in RCW 28A.150.010 who is participating as a volunteer under a program authorized by the public school. The student volunteer shall perform duties for the employer without wages. The student volunteer shall be deemed to be a volunteer even if the student is granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or

authorized duties. A person who earns wages for the services performed is not a student volunteer.

(3) Any and all premiums or assessments due under this title on account of service by a student volunteer shall be paid by the employer who has registered and accepted the services of volunteers and has exercised its option to secure the medical aid benefits under chapter 51.36 RCW for the student volunteers.

**NEW SECTION.** Sec. 2. The task force on school-to-work transitions created under RCW 28A.630.866 shall develop guidelines for nonpaid work-based learning experiences for student volunteers. The task force shall report its finding to the superintendent of public instruction not later than December 14, 1994.

**NEW SECTION.** Sec. 3. Section 1 of this act shall take effect October 1, 1994. The department of labor and industries may take such steps as are necessary to ensure that this section is implemented on its effective date.

Passed the House March 5, 1994.

Passed the Senate March 2, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 247

[House Bill 2905]

### RETIREMENT AND PENSIONS—COST-OF-LIVING ADJUSTMENT

AN ACT Relating to making permanent and simplifying the age sixty-five cost-of-living adjustment to retirement allowances; amending RCW 41.32.010, 41.32.575, 41.40.010, and 41.40.325; reenacting and amending RCW 43.88.030; adding a new section to chapter 41.32 RCW; adding a new section to chapter 41.40 RCW; and providing an effective date.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 41.32 RCW under the subchapter hearing "Plan I" to read as follows:

The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995.

**Sec. 2.** RCW 41.32.010 and 1993 c 95 s 7 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

(ii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" means the time during which a member has been employed by an employer for compensation: PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than

one service credit month during any calendar month in which multiple service is rendered.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of

public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.



(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(40) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items compiled by the bureau of labor statistics, United States department of labor.

(41) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(42) "Index B" means the index for the year prior to index A.

(43) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(44) "Adjustment ratio" means the value of index A divided by index B.

Sec. 3. RCW 41.32.575 and 1989 c 272 s 3 are each amended to read as follows:

~~(1) ((Beginning July 1, 1989, and every year thereafter, the department shall determine the following information for each retired member or beneficiary who is over the age of sixty-five:~~

~~(a) The dollar amount of the retirement allowance received by the retiree at age sixty-five, to be known for the purposes of this section as the "age sixty-five allowance";~~

~~(b) The index for the calendar year prior to the year that the retiree reached age sixty-five, to be known for purposes of this section as "index A";~~

~~(c) The index for the calendar year prior to the date of determination, to be known for purposes of this section as "index B";~~

~~(d) The ratio obtained when index B is divided by index A, to be known for the purposes of this section as the "full purchasing power ratio"; and~~

~~(e) The value obtained when the retiree's age sixty-five allowance is multiplied by sixty percent of the retiree's full purchasing power ratio, to be known for the purposes of this section as the "target benefit.")~~ Beginning April 1, 1995, and each April 1st thereafter, the office of the state actuary shall notify the department of:

(a) The index year; and

(b) The adjustment ratio except the adjustment ratio may not be greater than one and three one-hundredths or less than one.

(2) Beginning with the July 1, 1995, payment, and annually thereafter the ((retiree's age sixty-five)) retirement allowance of a retiree who attained age sixty-five on or before the index year shall be ((adjusted to be equal to the retiree's target benefit)) multiplied by the adjustment ratio except the adjustment ratio may not exceed one and three one-hundredths or be less than one. ((In no event, however, shall the adjusted allowance:

~~(a) Be smaller than the retirement allowance received without the adjustment; nor~~

~~(b) Differ from the previous year's allowance by more than three percent.~~

~~(3) For members who retire after age sixty-five, the age sixty-five allowance shall be the initial retirement allowance received by the member.~~

~~(4) For beneficiaries of members who die prior to age sixty-five: (a) The age sixty-five allowance shall be the allowance received by the beneficiary on the date the member would have turned age sixty-five; and (b) index A shall be the index for the calendar year prior to the year the member would have turned age sixty-five.~~

~~(5)) (3) Where the pension payable to a beneficiary was adjusted at the time the benefit commenced, the benefit provided by this section shall be adjusted in a manner consistent with the adjustment made to the beneficiary's pension.~~

~~((6)) (4) For the purposes of this section(~~

~~(a) "Index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor;~~

~~(b)) "retired member" or "retiree" means any member who has retired for service or because of duty or nonduty disability, or the surviving beneficiary of such a member.~~

NEW SECTION. Sec. 4. A new section is added to chapter 41.40 RCW under the subchapter heading "Plan I" to read as follows:

The dollar amount of the temporary postretirement allowance adjustment granted by section 1, chapter 519, Laws of 1993 shall be provided as a permanent retirement allowance adjustment as of July 1, 1995.

Sec. 5. RCW 41.40.010 and 1993 c 95 s 8 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW as now or hereafter amended; and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the basis of the schedules established by the member's employer: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period

shall be considered compensation earnable and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That if a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay: PROVIDED, That retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit: PROVIDED FURTHER, That in any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

(i) The compensation earnable the member would have received had such member not served in the legislature; or

(ii) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under subparagraph (i) of this subsection is greater than compensation earnable under subparagraph (ii) of this subsection shall be paid by the member for both member and employer contributions.

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system: PROVIDED FURTHER, That an individual shall receive no more than a total of twelve service credit months of service during any calendar year: PROVIDED FURTHER, That where an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

A member shall receive a total of not more than twelve service credit months of service for such calendar year: PROVIDED, That when an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: PROVIDED, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the employee or his employer, except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then

the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(35) "Index" means, for any calendar year, that year's annual average consumer price index, Seattle, Washington area, for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(36) "Index A" means the index for the year prior to the determination of a postretirement adjustment.

(37) "Index B" means the index for the year prior to index A.

(38) "Index year" means the earliest calendar year in which the index is more than sixty percent of index A.

(39) "Adjustment ratio" means the value of index A divided by index B.

**Sec. 6.** RCW 41.40.325 and 1989 c 272 s 2 are each amended to read as follows:

~~(1) Beginning (July 1, 1989, and every year thereafter, the department shall determine the following information for each retired member or beneficiary who is over the age of sixty five:~~

~~(a) The dollar amount of the retirement allowance received by the retiree at age sixty five, to be known for the purposes of this section as the "age sixty five allowance";~~

~~(b) The index for the calendar year prior to the year that the retiree reached age sixty five, to be known for purposes of this section as "index A";~~

~~(c) The index for the calendar year prior to the date of determination, to be known for purposes of this section as "index B";~~

~~(d) The ratio obtained when index B is divided by index A, to be known for the purposes of this section as the "full purchasing power ratio"; and~~

~~(e) The value obtained when the retiree's age sixty five allowance is multiplied by sixty percent of the retiree's full purchasing power ratio, to be known for the purposes of this section as the "target benefit.")~~ April 1, 1995, and each April 1st thereafter, the office of the state actuary shall notify the department of:

(a) The index year; and

(b) The adjustment ratio except the adjustment ratio may not be greater than one and three one-hundredths or less than one.



(2) Beginning with the July 1, 1995, payment, and annually thereafter the ~~((retiree's age sixty-five))~~ retirement allowance of a retiree who attained age sixty-five on or before the index year shall be ((adjusted to be equal to the retiree's target benefit)) multiplied by the adjustment ratio except the adjustment ratio may not exceed one and three one-hundredths or be less than one. ((In no event, however, shall the adjusted allowance:

~~(a) Be smaller than the retirement allowance received without the adjustment; nor~~

~~(b) Differ from the previous year's allowance by more than three percent.~~

~~(3) For members who retire after age sixty five, the age sixty five allowance shall be the initial retirement allowance received by the member.~~

~~(4) For beneficiaries of members who die prior to age sixty five: (a) The age sixty five allowance shall be the allowance received by the beneficiary on the date the member would have turned age sixty five; and (b) index A shall be the index for the calendar year prior to the year the member would have turned age sixty five.~~

~~(5)) (3) Where the pension payable to a beneficiary was adjusted at the time the benefit commenced, the benefit provided by this section shall be adjusted in a manner consistent with the adjustment made to the beneficiary's pension.~~

~~((6)) (4) For the purposes of this section((:~~

~~(a) "Index" means, for any calendar year, that year's average consumer price index—Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor;~~

~~(b)) "retired member" or "retiree" means any member who has retired for service or because of duty or nonduty disability, or the surviving beneficiary of such a member.~~

**Sec. 7.** RCW 43.88.030 and 1991 c 358 s 1 and 1991 c 284 s 1 are each reenacted and 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 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 as approved by the economic and revenue forecast council or upon the estimated revenues of the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does 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 interagency revenue task force. 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 for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each 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 object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury; ~~((and))~~

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 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 capital plan consisting of proposed capital spending for at least four fiscal periods succeeding the next fiscal period;
- (b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period;
- (c) A capital plan consisting of proposed capital spending for at least four fiscal periods succeeding the next fiscal period;
- (d) A statement of the reason or purpose for a project;
- (e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;
- (f) A statement about the proposed site, size, and estimated life of the project, if applicable;
- (g) Estimated total project cost;
- (h) Estimated total project cost for each phase of the project as defined by the office of financial management;
- (i) Estimated ensuing biennium costs;
- (j) Estimated costs beyond the ensuing biennium;
- (k) Estimated construction start and completion dates;
- (l) Source and type of funds proposed;
- (m) Such other information bearing upon capital projects as the governor deems to be useful;
- (n) Standard terms, including a standard and uniform definition of maintenance for all capital projects;
- (o) 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.

NEW SECTION. Sec. 8. This act shall take effect August 1, 1994.

Passed the House March 7, 1994.  
 Passed the Senate March 4, 1994.  
 Approved by the Governor April 1, 1994.  
 Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 248

[Substitute House Bill 1743]

### ENVIRONMENTAL PERMIT EFFICIENCY PILOT PROGRAM—WASTEWATER PERMITS

AN ACT Relating to pollution prevention; adding a new section to chapter 70.95C RCW; adding a new section to chapter 90.48 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 70.95C RCW to read as follows:

(1) Not later than January 1, 1995, the department shall designate an industry type and up to ten individual facilities within that industry type to be the focus of a pilot multimedia program. The program shall be designed to coordinate department actions related to environmental permits, plans, approvals, certificates, registrations, technical assistance, and inspections. The program shall also investigate the feasibility of issuing facility-wide permits. The director shall determine the industry type and facilities based on:

- (a) A review of at least three industry types; and
- (b) Criteria which shall include at least the following factors:
  - (i) The potential for the industry to serve as a state-wide model for multimedia environmental programs including pollution prevention;
  - (ii) Whether the industry type is subject to regulatory requirements relating to at least two of the following subject areas: Air quality, water quality, or hazardous waste management;
  - (iii) The existence within the industry type of a range of business sizes; and
  - (iv) Voluntary participation in the program.

(2) Not later than January 1, 1997, the department shall submit to the governor and the appropriate standing committees of the legislature:

(a) A report evaluating the pilot multimedia program. The report shall consider the program's effect on the efficiency and effectiveness of program delivery and shall evaluate the feasibility of expanding the program to other industry types; and

(b) A report analyzing the feasibility of a facility-wide permit program.

(3) In developing the program, the department shall consult with and seek the cooperation of the environmental protection agency.

(4) For purposes of this section, "facility-wide permit" means a single multimedia permit issued by the department to the owner or operator of a facility incorporating the permits and any other relevant department approvals previously issued to the owner or operator or currently required by the department.

**NEW SECTION.** **Sec. 2.** The purpose of this section and section 3 of this act is to establish a pilot program to encourage environmental permit program efficiency and pollution prevention through increased private sector participation in the preparation of wastewater discharge permits currently administered by the department of ecology.

The legislature recognizes that pollution prevention can often be accomplished through cooperative partnerships between government and industry and through voluntary changes in industrial production methods. By using expertise available in the private sector, the pilot program provided for in this section and section 3 of this act is intended to reduce the backlog of expired wastewater discharge permits in order to better protect the water quality of the state.

The legislature intends that the pilot program be implemented through the use of technical assistance and administrative guidelines; it is not the intent of this act to authorize additional rule making. The legislature also intends that the pilot program be implemented without causing a reduction in the number of state employees involved in administration of the wastewater discharge permit program.

The provisions in this act do not affect the authority of the department to bring enforcement actions, nor do they affect provisions in existing law for public participation and rights of appeal of permit decisions.

**NEW SECTION.** **Sec. 3.** A new section is added to chapter 90.48 RCW to read as follows:

(1) For the period beginning July 1, 1994, and ending July 1, 1996, the department shall conduct a pilot program to test the feasibility and effectiveness of allowing certain industries that require a permit, renewal, or modification under RCW 90.48.260 or 90.48.160 to submit an application in the form of a draft permit and fact sheet.

(2) Within thirty days of the effective date of this section, the department shall request approval from the federal environmental protection agency to implement the pilot program as provided in this section. If the environmental protection agency grants approval, the department shall:

(a) Establish criteria for a variety of types of applicants that are eligible to participate. Such criteria shall include:

(i) Consideration of the applicant's compliance history; and

(ii) The potential for the industry to serve as a model for increased private sector participation in permit preparation;

(b) Develop guidelines specifying the elements of a complete draft permit and fact sheet;

(c) Make available a list of approved contractors with whom applicants may contract for draft permit preparation;

(d) Document cost and time savings that may or may not result from draft permit preparation by applicants and reflect such savings in the next revision of permit fees for such applicants. Any reduction in fees for permittees participat-

ing in the pilot program shall not cause an increase in fees for other permittees; and

(e) Limit the number of facilities that will be eligible to participate in the pilot program to ten.

(3) Nothing in this section affects the requirements for public participation and right of appeal under RCW 90.48.260 and chapter 43.21B RCW. The department shall retain full authority under this chapter to approve, modify, or disapprove any draft permit or fact sheet submitted under this section.

(4) By July 1, 1995, the department shall provide an interim report to the appropriate standing committees of the legislature evaluating the effectiveness of the pilot program authorized under this section. A final report shall be submitted by December 1, 1996.

**NEW SECTION. Sec. 4.** (1) The legislature finds that utilization of private sector expertise may also benefit other administrative functions within the department of ecology's wastewater discharge permit program. The legislature therefore directs the department to conduct a study, in cooperation with the federal environmental protection agency, to evaluate the feasibility of utilizing private sector expertise for permit compliance assurance activities. By December 1, 1994, the department shall submit a report to the appropriate standing committees of the legislature that includes the following elements:

(a) A review of options for utilizing the private sector in the performance of annual compliance inspections of facilities covered under wastewater discharge permits. Such options shall include a review of the feasibility of: (i) The department contracting for compliance inspection services; (ii) the permittee contracting for compliance inspection services; and (iii) any other options identified by the department;

(b) An analysis of whether the options identified in (a) of this subsection are permissible under the federal clean water act and implementing regulations;

(c) An evaluation of whether cost savings or other benefits would result from utilizing private sector resources;

(d) An evaluation of whether staffing reductions would result from such privatization and, if so, what plan should be followed in order to transfer these employees to other appropriate classifications within the water quality program;

(e) An analysis of changes that may be necessary in the wastewater discharge permit fee schedule to accomplish such privatization; and

(f) Identification of any other alternative compliance strategies, in addition to privatization, that will improve the effectiveness and efficiency of the wastewater discharge permit program, and thereby improve the water quality of the state.

(2) The department shall seek recommendations from the federal environmental protection agency as to what federal waivers or approvals, if any, may be required to implement the options identified in subsection (1)(a) of this section.

**NEW SECTION. Sec. 5.** If any part of this act is found to be in conflict with federal requirements, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned.

Passed the House March 10, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 249

[Engrossed Second Substitute House Bill 2510]

### REGULATORY REFORM

AN ACT Relating to implementation of the recommendations of the governor's task force on regulatory reform; amending RCW 34.05.310, 34.05.370, 34.05.350, 34.05.330, 34.05.325, 34.05.355, 19.85.020, 34.05.320, 34.05.620, 34.05.630, 34.05.640, 34.05.660, 34.05.220, 34.05.534, 36.70A.290, 36.70A.110, 36.70A.210, 36.70A.250, 36.70A.260, 36.70A.280, 36.70A.310, and 36.70A.345; reenacting and amending RCW 19.85.030 and 19.85.040; adding new sections to chapter 34.05 RCW; adding new sections to chapter 19.85 RCW; adding a new section to chapter 43.31 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 36.01 RCW; creating new sections; repealing RCW 19.85.010, 19.85.060, 19.85.080, 34.05.670, and 34.05.680; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 34.05.310 and 1993 c 202 s 2 are each amended to read as follows:

(1) To meet the intent of providing greater public access to administrative rule making and to promote consensus among interested parties, agencies ~~((are encouraged to:~~

~~((1))) shall solicit comments from the public on a subject of possible rule making before publication of a notice of proposed rule adoption under RCW 34.05.320. ~~((This process can be accomplished by having a notice published in the state register of the subject under active consideration and indicating where, when, and how persons may comment; and))~~ The agency shall prepare a statement of intent that:~~

(a) States the specific statutory authority for the new rule;

(b) Identifies the reasons the new rule is needed;

(c) Identifies the goals of the new rule;

(d) Describes the process by which the rule will be developed, including, but not limited to, negotiated rule making, pilot rule making, or agency study; and

(e) Specifies the process by which interested parties can effectively participate in the formulation of the new rule.

The statement of intent shall be filed with the code reviser for publication in the state register and shall be sent to any party that has requested receipt of the agency's statements of intent.



(2) Agencies are encouraged to develop and use new procedures for reaching agreement among interested parties before publication of notice and the adoption hearing on a proposed rule. Examples of new procedures include, but are not limited to:

(a) Negotiated rule making which includes:

(i) Identifying individuals and organizations that have a recognized interest in or will be significantly affected by the adoption of the proposed rule;

~~((b))~~ (ii) Soliciting participation by persons who are capable, willing, and appropriately authorized to enter into such negotiations;

~~((c))~~ (iii) Assuring that participants fully recognize the consequences of not participating in the process, are committed to negotiate in good faith, and recognize the alternatives available to other parties;

~~((d))~~ (iv) Establishing guidelines to encourage consideration of all pertinent issues, to set reasonable completion deadlines, and to provide fair and objective settlement of disputes that may arise;

~~((e))~~ (v) Agreeing on a reasonable time period during which the agency will be bound to the rule resulting from the negotiations without substantive amendment; and

~~((f))~~ (vi) Providing a mechanism by which one or more parties may withdraw from the process or the negotiations may be terminated if it appears that consensus cannot be reached on a draft rule that accommodates the needs of the agency, interested parties, and the general public and conforms to the legislative intent of the statute that the rule is intended to implement; and

(b) Pilot rule making which includes testing the draft of a proposed rule through the use of volunteer pilot study groups in various areas and circumstances.

(3)(a) An agency must make a determination whether negotiated rule making, pilot rule making, or another process for generating participation from interested parties prior to development of the rule is appropriate.

(b) An agency must include a written justification in the rule-making file if an opportunity for interested parties to participate in the rule-making process prior to publication of the proposed rule has not been provided.

**Sec. 2.** RCW 34.05.370 and 1988 c 288 s 313 are each amended to read as follows:

(1) Each agency shall maintain an official rule-making file for each rule that it (a) proposes by publication in the state register, or (b) adopts. The file and materials incorporated by reference shall be available for public inspection.

(2) The agency rule-making file shall contain all of the following:

(a) Copies of all publications in the state register with respect to the rule or the proceeding upon which the rule is based;

(b) Copies of any portions of the agency's public rule-making docket containing entries relating to the rule or the proceeding on which the rule is based;

(c) All written petitions, requests, submissions, and comments received by the agency and all other written material regarded by the agency as important to adoption of the rule or the proceeding on which the rule is based;

(d) Any official transcript of oral presentations made in the proceeding on which the rule is based or, if not transcribed, any tape recording or stenographic record of them, and any memorandum prepared by a presiding official summarizing the contents of those presentations;

(e) The concise explanatory statement required by RCW 34.05.355;

(f) All petitions for exceptions to, amendment of, or repeal or suspension of, the rule; ~~(and)~~

(g) Citations to data, factual information, studies, or reports on which the agency relies in the adoption of the rule, indicating where such data, factual information, studies, or reports are available for review by the public;

(h) The written summary and response required by RCW 34.05.325(6); and

(i) Any other material placed in the file by the agency.

(3) Internal agency documents are exempt from inclusion in the rule-making file under subsection (2) of this section to the extent they constitute preliminary drafts, notes, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific document is not exempt from inclusion when it is publicly cited by an agency in connection with its decision.

(4) Upon judicial review, the file required by this section constitutes the official agency rule-making file with respect to that rule. Unless otherwise required by another provision of law, the official agency rule-making file need not be the exclusive basis for agency action on that rule.

**Sec. 3.** RCW 34.05.350 and 1989 c 175 s 10 are each amended to read as follows:

(1) If an agency for good cause finds:

(a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest; or

(b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule, the agency may dispense with those requirements and adopt, amend, or repeal the rule on an emergency basis. The agency's finding and a concise statement of the reasons for its finding shall be incorporated in the order for adoption of the emergency rule or amendment filed with the office of the code reviser under RCW 34.05.380 and with the rules review committee.

(2) An emergency rule adopted under this section takes effect upon filing with the code reviser, unless a later date is specified in the order of adoption, and may not remain in effect for longer than one hundred twenty days after filing. Identical or substantially similar emergency rules may not be adopted in sequence unless conditions have changed or the agency has filed notice of its

intent to adopt the rule as a permanent rule, and is actively undertaking the appropriate procedures to adopt the rule as a permanent rule. This section does not relieve any agency from compliance with any law requiring that its permanent rules be approved by designated persons or bodies before they become effective.

(3) Within seven days after the rule is adopted, any person may petition the governor requesting the immediate repeal of a rule adopted on an emergency basis by any department listed in RCW 43.17.010. Within seven days after submission of the petition, the governor shall either deny the petition in writing, stating his or her reasons for the denial, or order the immediate repeal of the rule. In ruling on the petition, the governor shall consider only whether the conditions in subsection (1) of this section were met such that adoption of the rule on an emergency basis was necessary. If the governor orders the repeal of the emergency rule, any sanction imposed based on that rule is void. This subsection shall not be construed to prohibit adoption of any rule as a permanent rule.

(4) In adopting an emergency rule, the agency shall comply with section 4 of this act or provide a written explanation for its failure to do so.

***\*NEW SECTION. Sec. 4. A new section is added to chapter 34.05 RCW under the subchapter heading Part III to read as follows:***

***(1) In addition to other requirements imposed by law, an agency may adopt a rule only if it determines that:***

***(a) The rule is needed;***

***(b) The likely benefits of the rule justify its likely costs;***

***(c) There are no reasonable alternatives to the rule that were presented during the public comment period that would be as effective but less burdensome on those required to comply;***

***(d) Any fee imposed will generate no more revenue than is necessary to achieve the objectives of the statute authorizing the fee;***

***(e) The rule does not conflict with any other provision of federal or state law;***

***(f) Any overlap or duplication of the rule with any other provision of federal or state law is necessary to achieve the objectives of the statute upon which the rule is based or expressly authorized by statute;***

***(g) Any difference between the rule and any provision of federal law regulating the same activity or subject matter is necessary to achieve the objectives of the statute upon which the rule is based or expressly authorized by statute; and***

***(h) Any difference between the rule's application to public and private entities is necessary to achieve the objectives of the statute upon which the rule is based or expressly authorized by statute.***

***(2) The agency shall prepare a written description of its determinations under subsection (1) of this section. This description shall be part of the official rule-making file for the rule.***

*(3) This section applies only to a rule the violation of which subjects a person to a penalty or administrative sanction; that establishes, alters, or revokes a qualification or standard for the issuance, suspension, or revocation of a license to pursue a commercial activity, trade, or profession; or that establishes, alters, or revokes a mandatory standard for a product or material that must be met before distribution or sale.*

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

***\*NEW SECTION.*** *Sec. 5. A new section is added to chapter 34.05 RCW to read as follows:*

*(1) Within a reasonable period of time after adopting rules covered by section 4 of this act, an agency shall have a rule implementation plan for rules filed under each adopting order. The plan shall describe how the agency intends to: (a) Inform and educate affected persons about the rule; (b) promote voluntary compliance; and (c) evaluate whether the rule achieves the purpose for which it was adopted.*

*(2) After the adoption of a rule covered by section 4 of this act regulating the same activity or subject matter as another provision of federal or state law, an agency shall do all of the following:*

*(a) Provide to the business assistance center a list citing by reference the other federal and state laws that regulate the same activity or subject matter;*

*(b) Coordinate implementation and enforcement of the rule with the other federal and state entities regulating the same activity or subject matter by making every effort to do one or more of the following: (i) Defer to the other entity; (ii) designate a lead agency; or (iii) enter into an agreement with the other entities specifying how the agency and entities will coordinate implementation and enforcement. If the agency is unable to do this, the agency shall report to the legislature pursuant to (c) of this subsection;*

*(c) Report to the joint administrative rules review committee: (i) The existence of any overlap or duplication of other federal or state laws, any differences from federal law, and any known overlap, duplication, or conflict with local laws; and (ii) legislation that may be necessary to eliminate or mitigate any adverse effects of such overlap, duplication, or difference.*

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

*\*Sec. 6. RCW 34.05.330 and 1988 c 288 s 305 are each amended to read as follows:*

*(1) Any person may petition an agency requesting the adoption, amendment, or repeal of any rule. Each agency may prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition. Within sixty days after submission of a petition, the agency shall ~~((1))~~ (a) either deny the petition in writing, stating its reasons for the denial, or ~~((2))~~ (b) initiate rule-making proceedings in accordance with this chapter.*

*(2) If any department listed in RCW 43.17.010 denies a petition to repeal or amend a rule submitted under subsection (1) of this section, the petitioner, within thirty days of the denial, may appeal the denial to the governor. The*

petitioner may file notice of the appeal with the code reviser for publication in the Washington State Register. Within sixty days after receiving the appeal, the governor shall either reject the appeal in writing, stating his or her reasons for the rejection, or order the agency to initiate rule-making proceedings in accordance with this chapter.

(3) In petitioning or appealing under this section, the person should address, among other factors:

(a) Whether the agency complied with sections 4 and 5 of this act;

(b) Whether the agency has established an adequate internal rules review process, allowing public participation, and has subjected the rule to that review;

(c) Whether the rule conflicts with, overlaps, or duplicates any other provision of federal, state, or local law and, if so, whether the agency has taken steps to mitigate any adverse effects of the conflict, overlap, or duplication;

(d) The extent to which technology, social or economic conditions, or other relevant factors have changed since the rule was adopted, and whether, given those changes, the rule continues to be necessary and appropriate;

(e) Whether the statute that the rule implements has been amended or repealed by the legislature, or ruled invalid by a court.

(4) The governor's office shall provide a copy of the governor's ruling under subsection (2) of this section to anyone upon request.

\*Sec. 6 was vetoed, see message at end of chapter.

Sec. 7. RCW 34.05.325 and 1992 c 57 s 1 are each amended to read as follows:

(1) The agency shall make a good faith effort to insure that the information on the proposed rule published pursuant to RCW 34.05.320 accurately reflects the rule to be presented and considered at the oral hearing on the rule. Written comment about a proposed rule, including supporting data, shall be accepted by an agency if received no later than the time and date specified in the notice, or such later time and date established at the rule-making hearing.

(2) The agency shall provide an opportunity for oral comment to be received by the agency in a rule-making hearing.

(3) If the agency possesses equipment capable of receiving telefacsimile transmissions or recorded telephonic communications, the agency may provide in its notice of hearing filed under RCW 34.05.320 that interested parties may comment on proposed rules by these means. If the agency chooses to receive comments by these means, the notice of hearing shall provide instructions for making such comments, including, but not limited to, appropriate telephone numbers to be used; the date and time by which comments must be received; required methods to verify the receipt and authenticity of the comments; and any limitations on the number of pages for telefacsimile transmission comments and on the minutes of tape recorded comments. The agency shall accept comments

received by these means for inclusion in the official record if the comments are made in accordance with the agency's instructions.

(4) The agency head, a member of the agency head, or a presiding officer designated by the agency head shall preside at the rule-making hearing. Rule-making hearings shall be open to the public. The agency shall cause a record to be made of the hearing by stenographic, mechanical, or electronic means. Unless the agency head presides or is present at substantially all the hearings, the presiding official shall prepare a memorandum for consideration by the agency head, summarizing the contents of the presentations made at the rule-making hearing. The summarizing memorandum is a public document and shall be made available to any person in accordance with chapter 42.17 RCW.

(5) Rule-making hearings are legislative in character and shall be reasonably conducted by the presiding official to afford interested persons the opportunity to present comment. Rule-making hearings may be continued to a later time and place established on the record without publication of further notice under RCW 34.05.320.

(6) Before the adoption of a final rule, an agency shall prepare a written summary of all comments received regarding the proposed rule, and a substantive response to the comments by category or subject matter, indicating how the final rule reflects agency consideration of the comments, or why it fails to do so. The agency shall provide the written summary and response to any person upon request or from whom the agency received comment.

**Sec. 8.** RCW 34.05.355 and 1988 c 288 s 310 are each amended to read as follows:

~~((1))~~ At the time it files an adopted rule with the code reviser or within thirty days thereafter, an agency shall place into the rule-making file maintained under RCW 34.05.370 a concise explanatory statement about the rule, identifying ~~((a))~~ (1) the agency's reasons for adopting the rule, and ~~((b))~~ (2) a description of any difference between the text of the proposed rule as published in the register and the text of the rule as adopted, other than editing changes, stating the reasons for change.

~~((2) Upon the request of any interested person within thirty days after adoption of a rule, the agency shall issue a concise statement of the principal reasons for overruling the considerations urged against its adoption.)~~

**NEW SECTION. Sec. 9.** A new section is added to chapter 19.85 RCW to read as follows:

The legislature finds that administrative rules adopted by state agencies can have a disproportionate impact on the state's small businesses because of the size of those businesses. This disproportionate impact reduces competition, innovation, employment, and new employment opportunities, and threatens the very existence of some small businesses. The legislature therefore enacts the regulatory fairness act with the intent of reducing the disproportionate impact of state administrative rules on small business.

**Sec. 10.** RCW 19.85.020 and 1993 c 280 s 34 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definitions in this section apply through this chapter.

(1) "Small business" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees.

(2) "Small business economic impact statement" means a statement meeting the requirements of RCW 19.85.040 prepared by a state agency pursuant to RCW 19.85.030.

(3) "Industry" means all of the businesses in this state in any one (~~three-digit~~) four-digit standard industrial classification as published by the United States department of commerce. However, if the use of a four-digit standard industrial classification would result in the release of data that would violate state confidentiality laws, "industry" means all businesses in a three-digit standard industrial classification.

**Sec. 11.** RCW 19.85.030 and 1989 c 374 s 2 and 1989 c 175 s 72 are each reenacted and amended to read as follows:

(1) In the adoption of any rule pursuant to RCW 34.05.320 that will (~~have an economic impact~~) impose more than minor costs on more than twenty percent of all industries, or more than ten percent of any one industry, the adopting agency:

(~~(1)~~) (a) Shall reduce the economic impact of the rule on small business by doing one or more of the following when it is legal and feasible in meeting the stated objective of the statutes which are the basis of the proposed rule:

(~~(a)~~) (i) Establish differing compliance or reporting requirements or timetables for small businesses;

(~~(b)~~) (ii) Clarify, consolidate, or simplify the compliance and reporting requirements under the rule for small businesses;

(~~(c)~~) (iii) Establish performance rather than design standards;

(~~(d)~~) (iv) Exempt small businesses from any or all requirements of the rule;

(v) Reduce or modify fine schedules for noncompliance; and

(vi) Other mitigation techniques;

(~~(2)~~) (b) Before filing notice of a proposed rule, shall prepare a small business economic impact statement in accordance with RCW 19.85.040 and file (~~such~~) notice of how the person can obtain the statement with the code reviser (~~along with~~) as part of the notice required under RCW 34.05.320;

(2) If requested to do so by a majority vote of the joint administrative rules review committee within thirty days after notice of the proposed rule is published in the state register, an agency shall prepare a small business economic impact statement on the proposed rule before adoption of the rule. Upon completion,

an agency shall provide a copy of the small business economic impact statement to any person requesting it.

(3) An agency may request assistance from the business assistance center in the preparation of the small business economic impact statement.

(4) The business assistance center shall develop guidelines to assist agencies in determining whether a proposed rule will impose more than minor costs on businesses in an industry and therefore require preparation of a small business economic impact statement. The business assistance center may review an agency determination that a proposed rule will not impose such costs, and shall advise the joint administrative rules review committee on disputes involving agency determinations under this section.

**Sec. 12.** RCW 19.85.040 and 1989 c 374 s 3 and 1989 c 175 s 73 are each reenacted and amended to read as follows:

(1) A small business economic impact statement must include a brief description of the reporting, recordkeeping, and other compliance requirements of the proposed rule, and the kinds of professional services that a small business is likely to need in order to comply with such requirements. ((A small business economic impact statement)) It shall analyze((, based on existing data,)) the costs of compliance for businesses required to comply with the ((provisions of a)) proposed rule adopted pursuant to RCW 34.05.320, including costs of equipment, supplies, labor, and increased administrative costs((, and)). It shall consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue. To determine whether the proposed rule will have a disproportionate impact on small businesses, the impact statement must compare ((to the greatest extent possible)) the cost of compliance for small business with the cost of compliance for the ten percent of ((firms which)) businesses that are the largest businesses required to comply with the proposed ((new or amendatory)) rules((, The small business economic impact statement shall use)) using one or more of the following as a basis for comparing costs:

- ~~((1))~~ (a) Cost per employee;
- ~~((2))~~ (b) Cost per hour of labor; or
- ~~((3))~~ (c) Cost per one hundred dollars of sales(~~(+~~
- ~~(4) Any combination of (1), (2), or (3)).~~

(2) A small business economic impact statement must also include:

(a) A statement of the steps taken by the agency to reduce the costs of the rule on small businesses as required by RCW 19.85.030(1), or reasonable justification for not doing so, addressing the options listed in RCW 19.85.030(1);

(b) A description of how the agency will involve small businesses in the development of the rule; and

(c) A list of industries that will be required to comply with the rule. However, this subsection (2)(c) shall not be construed to preclude application of the rule to any business or industry to which it would otherwise apply.



(3) To obtain information for purposes of this section, an agency may survey a representative sample of affected businesses or trade associations and should, whenever possible, appoint a committee under RCW 34.05.310(2) to assist in the accurate assessment of the costs of a proposed rule, and the means to reduce the costs imposed on small business.

***\*NEW SECTION. Sec. 13. A new section is added to chapter 19.85 RCW to read as follows:***

***Unless so requested by a majority vote of the joint administrative rules review committee under RCW 19.85.030, an agency is not required to comply with this chapter when adopting any rule solely for the purpose of conformity or compliance, or both, with federal law. In lieu of the statement required under RCW 19.85.030, the agency shall file a statement citing, with specificity, the federal law with which the rule is being adopted to conform or comply, and describing the consequences to the state if the rule is not adopted.***

***\*Sec. 13 was vetoed, see message at end of chapter.***

**Sec. 14.** RCW 34.05.320 and 1992 c 197 s 8 are each amended to read as follows:

(1) At least twenty days before the rule-making hearing at which the agency receives public comment regarding adoption of a rule, the agency shall cause notice of the hearing to be published in the state register. The publication constitutes the proposal of a rule. The notice shall include all of the following:

(a) A title, a description of the rule's purpose, and any other information which may be of assistance in identifying the rule or its purpose;

(b) Citations of the statutory authority for adopting the rule and the specific statute the rule is intended to implement;

(c) A summary of the rule and a statement of the reasons supporting the proposed action;

(d) The agency personnel, with their office location and telephone number, who are responsible for the drafting, implementation, and enforcement of the rule;

(e) The name of the person or organization, whether private, public, or governmental, proposing the rule;

(f) Agency comments or recommendations, if any, regarding statutory language, implementation, enforcement, and fiscal matters pertaining to the rule;

(g) Whether the rule is necessary as the result of federal law or federal or state court action, and if so, a copy of such law or court decision shall be attached to the purpose statement;

(h) When, where, and how persons may present their views on the proposed rule;

(i) The date on which the agency intends to adopt the rule;

(j) A short explanation of the rule, its purpose, and anticipated effects, including in the case of a proposal that would modify existing rules, a short description of the changes the proposal would make; and

(k) A statement indicating how a person can obtain a copy of the small business economic impact statement~~((, if applicable, and a statement of steps taken to minimize the economic impact in accordance with RCW 19.85.030))~~ prepared under chapter 19.85 RCW, or an explanation for why the agency did not prepare the statement.

(2) Upon filing notice of the proposed rule with the code reviser, the adopting agency shall have copies of the notice on file and available for public inspection and shall forward three copies of the notice to the rules review committee.

(3) No later than three days after its publication in the state register, the agency shall cause a copy of the notice of proposed rule adoption to be mailed to each person who has made a request to the agency for a mailed copy of such notices. An agency may charge for the actual cost of providing individual mailed copies of these notices.

(4) In addition to the notice required by subsections (1) and (2) of this section, an institution of higher education shall cause the notice to be published in the campus or standard newspaper of the institution at least seven days before the rule-making hearing.

**NEW SECTION.** Sec. 15. A new section is added to chapter 43.31 RCW to read as follows:

To assist state agencies in reducing regulatory costs to small business and to promote greater public participation in the rule-making process, the business assistance center shall:

(1) Develop agency guidelines for the preparation of a small business economic impact statement and compliance with chapter 19.85 RCW;

(2) Review and provide comments to agencies on draft or final small business economic impact statements;

(3) Advise the joint administrative rules review committee on whether an agency reasonably assessed the costs of a proposed rule and reduced the costs for small business as required by chapter 19.85 RCW; and

(4) Organize and chair a state rules coordinating committee, consisting of agency rules coordinators and interested members of the public, to develop an education and training program that includes, among other components, a component that addresses voluntary compliance, for agency personnel responsible for rule development and implementation. The business assistance center shall submit recommendations to the department of personnel for an administrative procedures training program that is based on the sharing of interagency resources.

**\*NEW SECTION.** Sec. 16. The following acts or parts of acts are each repealed:

(1) RCW 19.85.010 and 1982 c 6 s 1;

(2) *RCW 19.85.060 and 1989 c 374 s 5*; and

(3) RCW 19.85.080 and 1992 c 197 s 2.

\*Sec. 16 was partially vetoed, see message at end of chapter.

**Sec. 17.** RCW 34.05.620 and 1988 c 288 s 602 are each amended to read as follows:

Whenever a majority of the members of the rules review committee determines that a proposed rule is not within the intent of the legislature as expressed in the statute which the rule implements, or that an agency may not be adopting a proposed rule in accordance with all applicable provisions of law, including section 4 of this act and chapter 19.85 RCW, the committee shall give the affected agency written notice of its decision. The notice shall be given at least seven days prior to any hearing scheduled for consideration of or adoption of the proposed rule pursuant to RCW 34.05.320. The notice shall include a statement of the review committee's findings and the reasons therefor. When the agency holds a hearing on the proposed rule, the agency shall consider the review committee's decision.

**Sec. 18.** RCW 34.05.630 and 1993 c 277 s 1 are each amended to read as follows:

(1) All rules required to be filed pursuant to RCW 34.05.380, and emergency rules adopted pursuant to RCW 34.05.350, are subject to selective review by the legislature.

(2) The rules review committee may review an agency's use of policy statements, guidelines, and issuances that are of general applicability, or their equivalents to determine whether or not an agency has failed to adopt a rule or whether they are within the intent of the legislature as expressed by the governing statute.

(3) If the rules review committee finds by a majority vote of its members: (a) That an existing rule is not within the intent of the legislature as expressed by the statute which the rule implements (b) that the rule has not been adopted in accordance with all applicable provisions of law, including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW, (c) that an agency is using a policy statement, guideline, or issuance in place of a rule, or (d) that the policy statement, guideline, or issuance is outside of legislative intent, the agency affected shall be notified of such finding and the reasons therefor. Within thirty days of the receipt of the rules review committee's notice, the agency shall file notice of a hearing on the rules review committee's finding with the code reviser and mail notice to all persons who have made timely request of the agency for advance notice of its rule-making proceedings as provided in RCW 34.05.320. The agency's notice shall include the rules review committee's findings and reasons therefor, and shall be published in the Washington state register in accordance with the provisions of chapter 34.08 RCW.

(4) The agency shall consider fully all written and oral submissions regarding (a) whether the rule in question is within the intent of the legislature

as expressed by the statute which the rule implements, (b) whether the rule was adopted in accordance with all applicable provisions of law, including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW, (c) whether the agency is using a policy statement, guideline, or issuance in place of a rule, or (d) whether the policy statement, guideline, or issuance is within the legislative intent.

**Sec. 19.** RCW 34.05.640 and 1993 c 277 s 2 are each amended to read as follows:

(1) Within seven days of an agency hearing held after notification of the agency by the rules review committee pursuant to RCW 34.05.620 or 34.05.630, the affected agency shall notify the committee of its action on a proposed or existing rule to which the committee objected or on a committee finding of the agency's failure to adopt rules. If the rules review committee determines, by a majority vote of its members, that the agency has failed to provide for the required hearings or notice of its action to the committee, the committee may file notice of its objections, together with a concise statement of the reasons therefor, with the code reviser within thirty days of such determination.

(2) If the rules review committee finds, by a majority vote of its members: (a) That the proposed or existing rule in question has not been modified, amended, withdrawn, or repealed by the agency so as to conform with the intent of the legislature, or (b) that an existing rule was not adopted in accordance with all applicable provisions of law, including section 4 of this act if the rule was adopted after the effective date of section 4 of this act and chapter 19.85 RCW, or (c) that the agency is using a policy statement, guideline, or issuance in place of a rule, or that the policy statement, guideline, or issuance is outside of the legislative intent, the rules review committee may, within thirty days from notification by the agency of its action, file with the code reviser notice of its objections together with a concise statement of the reasons therefor. Such notice and statement shall also be provided to the agency by the rules review committee.

(3) If the rules review committee makes an adverse finding under subsection (2) of this section, the committee may, by a (~~two-thirds~~) majority vote of its members, recommend suspension of an existing rule. Within seven days of such vote the committee shall transmit to the appropriate standing committees of the legislature, the governor, the code reviser, and the agency written notice of its objection and recommended suspension and the concise reasons therefor. Within thirty days of receipt of the notice, the governor shall transmit to the committee, the code reviser, and the agency written approval or disapproval of the recommended suspension. If the suspension is approved by the governor, it is effective from the date of that approval and continues until ninety days after the expiration of the next regular legislative session.

(4) If the governor disapproves the recommendation of the rules review committee to suspend the rule, the transmittal of such decision, along with the

findings of the rules review committee, shall be treated by the agency as a petition by the rules review committee to repeal the rule under RCW 34.05.330.

(5) The code reviser shall publish transmittals from the rules review committee or the governor issued pursuant to subsection (1), (2), or (3) of this section in the Washington state register and shall publish in the next supplement and compilation of the Washington Administrative Code a reference to the committee's objection or recommended suspension and the governor's action on it and to the issue of the Washington state register in which the full text thereof appears.

((5)) (6) The reference shall be removed from a rule published in the Washington Administrative Code if a subsequent adjudicatory proceeding determines that the rule is within the intent of the legislature or was adopted in accordance with all applicable laws, whichever was the objection of the rules review committee.

*\*Sec. 20. RCW 34.05.660 and 1988 c 288 s 606 are each amended to read as follows:*

*(1) It is the express policy of the legislature that establishment of procedures for review of administrative rules by the legislature and the notice of objection required by RCW 34.05.630(2) and 34.05.640(2) in no way serves to establish a presumption as to the legality or constitutionality of a rule in any subsequent judicial proceedings interpreting such rules.*

*(2) Notwithstanding subsection (1) of this section, if the joint administrative rules review committee, by a two-thirds vote of its members, recommends to the governor that an existing rule be suspended because it does not conform with the intent of the legislature, the recommendation shall establish a rebuttable presumption in any proceeding challenging the validity of the rule that the rule is invalid. The burden of demonstrating the rule's validity is then on the adopting agency.*

\*Sec. 20 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

- (1) RCW 34.05.670 and 1992 c 197 s 3; and
- (2) RCW 34.05.680 and 1992 c 197 s 4.

NEW SECTION. Sec. 22. The department of community, trade, and economic development shall develop a standardized format for reporting information that is commonly required from the public by state, local, and where appropriate, federal government agencies for permits, licenses, approvals, and services. In the development of the format, the department shall work in conjunction with representatives from state, local, and where appropriate, federal government agencies. In developing the standardized format, the department shall also consult with representatives of both small and large businesses in the state.

The department shall submit the standardized format together with recommendations for implementation to the legislature by December 31, 1994.

**\*NEW SECTION.** *Sec. 23. A new section is added to chapter 34.05 RCW to read as follows:*

*(1) This section applies only to the department of revenue, the employment security department, the department of ecology, the department of labor and industries, the department of health, the department of licensing, and the department of fish and wildlife for rules other than those that deal only with seasons, catch or bag limits, gear types, or geographical areas for fishing or shellfish removal.*

*(2) If a business entity has written to an agency listed in subsection (1) of this section requesting technical assistance to comply with specific types of the agency's statutes or rules, the agency may immediately impose a penalty otherwise provided for by law for a violation of a statute or administrative rule only if the business entity on which the penalty will be imposed has: (a) Previously violated the same statute or rule; or (b) knowingly violated the statute or rule. Where a penalty is otherwise provided, but may not be imposed under this subsection, the agency shall issue a statement of deficiency.*

*(3) A statement of deficiency shall specify: (a) The particular rule violated; (b) the steps the entity must take to comply with the rule; (c) any agency personnel designated by the agency to provide technical assistance regarding compliance with the rule; and (d) a date by which the entity is required to comply with the rule. The date specified shall provide a reasonable period of time for the entity to comply with the rule, considering the size of the entity, its available resources, and the threat posed by the violation. If the entity fails to comply with the rule by the date specified, it shall be subject to the penalty otherwise provided in law.*

*(4) Subsection (2) of this section shall not apply to any violation that places a person in danger of death or bodily harm, is causing or is likely to cause more than minor environmental harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars. With regard to a statute or rule requiring the payment of a tax, subsection (2) of this section shall not apply if the amount of taxes actually owed by the business entity exceeds the amount paid by more than one thousand dollars and shall not be construed to relieve anyone from the obligation to pay interest on taxes owed.*

*(5) The state, the agency, and officers or employees of the state shall not be liable for damages to any person to the extent that liability is asserted to arise from the technical assistance provided under this section, or if liability is asserted to arise from the failure of the agency to supply technical assistance.*

*(6) An agency need not comply with this section if compliance may be in conflict with a requirement of federal law for obtaining or maintaining state authority to administer a federally delegated program; however, the agency*

*shall submit a written petition to the appropriate federal agency for authorization to comply with this section for all inspections while obtaining or maintaining the state's federal delegation and shall comply with this section to the extent authorized by the appropriate federal agency.*

*\*Sec. 23 was vetoed, see message at end of chapter.*

**Sec. 24.** RCW 34.05.220 and 1989 c 175 s 4 are each amended to read as follows:

(1) In addition to other rule-making requirements imposed by law:

(a) Each agency may adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions. If an agency has not adopted procedural rules under this section, the model rules adopted by the chief administrative law judge under RCW 34.05.250 govern procedures before the agency.

(b) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain information and make submissions or requests. No person may be required to comply with agency procedure not adopted as a rule as herein required.

(2) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions, and opinions in adjudicative proceedings, interpretive statements, policy statements, and any digest or index to those orders, decisions, opinions, or statements prepared by or for the agency.

(3) No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection. This subsection is not applicable in favor of any person who has actual knowledge of the order, decision, or opinion. The agency has the burden of proving that knowledge, but may meet that burden by proving that the person has been properly served with a copy of the order.

(4) Each agency that is authorized by law to exercise discretion in deciding individual cases is encouraged to formalize the general principles that may evolve from these decisions by adopting the principles as rules that the agency will follow until they are amended or repealed.

(5) To the extent practicable, any rule proposed or adopted by an agency should be clearly and simply stated, so that it can be understood by those required to comply.

*\*Sec. 25. RCW 34.05.534 and 1988 c 288 s 507 are each amended to read as follows:*

*A person may file a petition for judicial review under this chapter only after exhausting all administrative remedies available within the agency whose action is being challenged, or available within any other agency authorized to exercise administrative review, except:*

*(1) A petitioner for judicial review of a rule need not have participated in the rule-making proceeding upon which that rule is based, ~~((or))~~ have petitioned for its amendment or repeal, or have appealed a petition for amendment or repeal to the governor;*

*(2) A petitioner for judicial review need not exhaust administrative remedies to the extent that this chapter or any other statute states that exhaustion is not required; or*

*(3) The court may relieve a petitioner of the requirement to exhaust any or all administrative remedies upon a showing that:*

*(a) The remedies would be patently inadequate;*

*(b) The exhaustion of remedies would be futile; or*

*(c) The grave irreparable harm that would result from having to exhaust administrative remedies would clearly outweigh the public policy requiring exhaustion of administrative remedies.*

\*Sec. 25 was vetoed, see message at end of chapter.

Sec. 26. RCW 36.70A.290 and 1991 sp.s. c 32 s 10 are each amended to read as follows:

(1) All requests for review to a growth ~~((planning))~~ management hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city. The date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published. Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto. The date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.

(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.



**Sec. 27.** RCW 36.70A.110 and 1993 sp.s. c 6 s 2 are each amended to read as follows:

(1) Each county that is required or chooses to plan under RCW 36.70A.040 shall designate an urban growth area or areas within which urban growth shall be encouraged and outside of which growth can occur only if it is not urban in nature. Each city that is located in such a county shall be included within an urban growth area. An urban growth area may include more than a single city. An urban growth area may include territory that is located outside of a city only if such territory already is characterized by urban growth or is adjacent to territory already characterized by urban growth.

(2) Based upon the population growth management planning population projection made for the county by the office of financial management, the urban growth areas in the county shall include areas and densities sufficient to permit the urban growth that is projected to occur in the county for the succeeding twenty-year period. Each urban growth area shall permit urban densities and shall include greenbelt and open space areas. Within one year of July 1, 1990, each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040, shall begin consulting with each city located within its boundaries and each city shall propose the location of an urban growth area. Within sixty days of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040 shall begin this consultation with each city located within its boundaries. The county shall attempt to reach agreement with each city on the location of an urban growth area within which the city is located. If such an agreement is not reached with each city located within the urban growth area, the county shall justify in writing why it so designated the area an urban growth area. A city may object formally with the department over the designation of the urban growth area within which it is located. Where appropriate, the department shall attempt to resolve the conflicts, including the use of mediation services.

(3) Urban growth should be located first in areas already characterized by urban growth that have existing public facility and service capacities to serve such development, and second in areas already characterized by urban growth that will be served by a combination of both existing public facilities and services and any additional needed public facilities and services that are provided by either public or private sources. Further, it is appropriate that urban government services be provided by cities, and urban government services should not be provided in rural areas.

(4) On or before October 1, 1993, each county that was initially required to plan under RCW 36.70A.040(1) shall adopt development regulations designating interim urban growth areas under this chapter. Within three years and three months of the date the county legislative authority of a county adopts its resolution of intention or of certification by the office of financial management, all other counties that are required or choose to plan under RCW 36.70A.040

shall adopt development regulations designating interim urban growth areas under this chapter. Adoption of the interim urban growth areas may only occur after public notice; public hearing; and compliance with the state environmental policy act, chapter 43.21C RCW, and RCW 36.70A.110. Such action may be appealed to the appropriate growth (~~planning~~) management hearings board under RCW 36.70A.280. Final urban growth areas shall be adopted at the time of comprehensive plan adoption under this chapter.

(5) Each county shall include designations of urban growth areas in its comprehensive plan.

**Sec. 28.** RCW 36.70A.210 and 1993 sp.s. c 6 s 4 are each amended to read as follows:

(1) The legislature recognizes that counties are regional governments within their boundaries, and cities are primary providers of urban governmental services within urban growth areas. For the purposes of this section, a "county-wide planning policy" is a written policy statement or statements used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted pursuant to this chapter. This framework shall ensure that city and county comprehensive plans are consistent as required in RCW 36.70A.100. Nothing in this section shall be construed to alter the land-use powers of cities.

(2) The legislative authority of a county that plans under RCW 36.70A.040 shall adopt a county-wide planning policy in cooperation with the cities located in whole or in part within the county as follows:

(a) No later than sixty calendar days from July 16, 1991, the legislative authority of each county that as of June 1, 1991, was required or chose to plan under RCW 36.70A.040 shall convene a meeting with representatives of each city located within the county for the purpose of establishing a collaborative process that will provide a framework for the adoption of a county-wide planning policy. In other counties that are required or choose to plan under RCW 36.70A.040, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management.

(b) The process and framework for adoption of a county-wide planning policy specified in (a) of this subsection shall determine the manner in which the county and the cities agree to all procedures and provisions including but not limited to desired planning policies, deadlines, ratification of final agreements and demonstration thereof, and financing, if any, of all activities associated therewith.

(c) If a county fails for any reason to convene a meeting with representatives of cities as required in (a) of this subsection, the governor may immediately impose any appropriate sanction or sanctions on the county from those specified under RCW 36.70A.340.

(d) If there is no agreement by October 1, 1991, in a county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or if there

is no agreement within one hundred twenty days of the date the county adopted its resolution of intention or was certified by the office of financial management in any other county that is required or chooses to plan under RCW 36.70A.040, the governor shall first inquire of the jurisdictions as to the reason or reasons for failure to reach an agreement. If the governor deems it appropriate, the governor may immediately request the assistance of the department of community, trade, and economic development to mediate any disputes that preclude agreement. If mediation is unsuccessful in resolving all disputes that will lead to agreement, the governor may impose appropriate sanctions from those specified under RCW 36.70A.340 on the county, city, or cities for failure to reach an agreement as provided in this section. The governor shall specify the reason or reasons for the imposition of any sanction.

(e) No later than July 1, 1992, the legislative authority of each county that was required or chose to plan under RCW 36.70A.040 as of June 1, 1991, or no later than fourteen months after the date the county adopted its resolution of intention or was certified by the office of financial management the county legislative authority of any other county that is required or chooses to plan under RCW 36.70A.040, shall adopt a county-wide planning policy according to the process provided under this section and that is consistent with the agreement pursuant to (b) of this subsection, and after holding a public hearing or hearings on the proposed county-wide planning policy.

(3) A county-wide planning policy shall at a minimum, address the following:

(a) Policies to implement RCW 36.70A.110;

(b) Policies for promotion of contiguous and orderly development and provision of urban services to such development;

(c) Policies for siting public capital facilities of a county-wide or state-wide nature;

(d) Policies for county-wide transportation facilities and strategies;

(e) Policies that consider the need for affordable housing, such as housing for all economic segments of the population and parameters for its distribution;

(f) Policies for joint county and city planning within urban growth areas;

(g) Policies for county-wide economic development and employment; and

(h) An analysis of the fiscal impact.

(4) Federal agencies and Indian tribes may participate in and cooperate with the county-wide planning policy adoption process. Adopted county-wide planning policies shall be adhered to by state agencies.

(5) Failure to adopt a county-wide planning policy that meets the requirements of this section may result in the imposition of a sanction or sanctions on a county or city within the county, as specified in RCW 36.70A.340. In imposing a sanction or sanctions, the governor shall specify the reasons for failure to adopt a county-wide planning policy in order that any imposed sanction or sanctions are fairly and equitably related to the failure to adopt a county-wide planning policy.

(6) Cities and the governor may appeal an adopted county-wide planning policy to the growth ((~~planning~~)) management hearings board within sixty days of the adoption of the county-wide planning policy.

(7) Multicounty planning policies shall be adopted by two or more counties, each with a population of four hundred fifty thousand or more, with contiguous urban areas and may be adopted by other counties, according to the process established under this section or other processes agreed to among the counties and cities within the affected counties throughout the multicounty region.

**Sec. 29.** RCW 36.70A.250 and 1991 sp.s. c 32 s 5 are each amended to read as follows:

(1) There are hereby created three growth ((~~planning~~)) management hearings boards for the state of Washington. The boards shall be established as follows:

(a) An Eastern Washington board with jurisdictional boundaries including all counties that are required to or choose to plan under RCW 36.70A.040 and are located east of the crest of the Cascade mountains;

(b) A Central Puget Sound board with jurisdictional boundaries including King, Pierce, Snohomish, and Kitsap counties; and

(c) A Western Washington board with jurisdictional boundaries including all counties that are required or choose to plan under RCW 36.70A.040 and are located west of the crest of the Cascade mountains and are not included in the Central Puget Sound board jurisdictional boundaries. Skamania county, should it be required or choose to plan under RCW 36.70A.040, may elect to be included within the jurisdictional boundaries of either the Western or Eastern board.

(2) Each board shall only hear matters pertaining to the cities and counties located within its jurisdictional boundaries.

**Sec. 30.** RCW 36.70A.260 and 1991 sp.s. c 32 s 6 are each amended to read as follows:

(1) Each growth ((~~planning~~)) management hearings board shall consist of three members qualified by experience or training in matters pertaining to land use planning and residing within the jurisdictional boundaries of the applicable board. At least one member of each board must be admitted to practice law in this state and at least one member must have been a city or county elected official. Each board shall be appointed by the governor and not more than two members at the time of appointment or during their term shall be members of the same political party. No more than two members at the time of appointment or during their term shall reside in the same county.

(2) Each member of a board shall be appointed for a term of six years. A vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which the vacancy occurs. The terms of the first three members of a board shall be staggered so that one member is appointed to serve until July 1, 1994, one member until July 1, 1996, and one member until July 1, 1998.

**Sec. 31.** RCW 36.70A.280 and 1991 sp.s. c 32 s 9 are each amended to read as follows:

(1) A growth ~~((planning))~~ management hearings board shall hear and determine only those petitions alleging either:

(a) That a state agency, county, or city is not in compliance with the requirements of this chapter, or chapter 43.21C RCW as it relates to plans, regulations, ~~((and))~~ or amendments ~~((thereto))~~, adopted under RCW 36.70A.040; or

(b) That the twenty-year growth management planning population projections adopted by the office of financial management pursuant to RCW 43.62.035 should be adjusted.

(2) A petition may be filed only by the state, a county or city that plans under this chapter, a person who has either appeared before the county or city regarding the matter on which a review is being requested or is certified by the governor within sixty days of filing the request with the board, or a person qualified pursuant to RCW 34.05.530.

(3) For purposes of this section "person" means any individual, partnership, corporation, association, governmental subdivision or unit thereof, or public or private organization or entity of any character.

(4) When considering a possible adjustment to a growth management planning population projection prepared by the office of financial management, a board shall consider the implications of any such adjustment to the population forecast for the entire state.

The rationale for any adjustment that is adopted by a board must be documented and filed with the office of financial management within ten working days after adoption.

If adjusted by a board, a county growth management planning population projection shall only be used for the planning purposes set forth in this chapter and shall be known as a "board adjusted population projection". None of these changes shall affect the official state and county population forecasts prepared by the office of financial management, which shall continue to be used for state budget and planning purposes.

**Sec. 32.** RCW 36.70A.310 and 1991 sp.s. c 32 s 12 are each amended to read as follows:

A request for review by the state to a growth ~~((planning))~~ management hearings board may be made only by the governor, or with the governor's consent the head of an agency, or by the commissioner of public lands as relating to state trust lands, for the review of whether: (1) A county or city that is required or chooses to plan under RCW 36.70A.040 has failed to adopt a comprehensive plan or development regulations, or county-wide planning policies within the time limits established by this chapter; or (2) a county or city that is required or chooses to plan under this chapter has adopted a comprehensive plan, development regulations, or county-wide planning policies, that are not in compliance with the requirements of this chapter.

**Sec. 33.** RCW 36.70A.345 and 1993 sp.s. c 6 s 5 are each amended to read as follows:

The governor may impose a sanction or sanctions specified under RCW 36.70A.340 on: (1) A county or city that fails to designate critical areas, agricultural lands, forest lands, or mineral resource lands under RCW 36.70A.170 by the date such action was required to have been taken; (2) a county or city that fails to adopt development regulations under RCW 36.70A.060 protecting critical areas or conserving agricultural lands, forest lands, or mineral resource lands by the date such action was required to have been taken; (3) a county that fails to designate urban growth areas under RCW 36.70A.110 by the date such action was required to have been taken; and (4) a county or city that fails to adopt its comprehensive plan or development regulations when such actions are required to be taken.

Imposition of a sanction or sanctions under this section shall be preceded by written findings by the governor, that either the county or city is not proceeding in good faith to meet the requirements of the act; or that the county or city has unreasonably delayed taking the required action. The governor shall consult with and communicate his or her findings to the appropriate growth ~~((planning))~~ management hearings board prior to imposing the sanction or sanctions. For those counties or cities that are not required to plan or have not opted in, the governor in imposing sanctions shall consider the size of the jurisdiction relative to the requirements of this chapter and the degree of technical and financial assistance provided.

**\*NEW SECTION.** *Sec. 34. A new section is added to chapter 35.21 RCW to read as follows:*

*(1) Before a city or town adopts a law that regulates the same activity or subject matter as another provision of federal or state law, the city or town shall:*

*(a) Contact appropriate state and federal government entities regulating the same activity or subject matter to identify areas of conflict, overlap, or duplication; and*

*(b) Make every effort to avoid conflict, overlap, and duplication;*

*(2) After the adoption of a law that conflicts with, overlaps, or duplicates other laws, the city or town shall:*

*(a) Notify the state and federal entities of the adoption of the law and the areas of conflict, overlap, and duplication; and*

*(b) Make every effort to coordinate implementation of the law with the appropriate state and federal entities.*

*\*Sec. 34 was vetoed, see message at end of chapter.*

**\*NEW SECTION.** *Sec. 35. A new section is added to chapter 36.01 RCW to read as follows:*

*(1) Before a county adopts a law that regulates the same activity or subject matter as another provision of federal or state law, the county shall:*

*(a) Contact appropriate state and federal government entities regulating the same activity or subject matter to identify areas of conflict, overlap, or duplication; and*

*(b) Make every effort to avoid conflict, overlap, and duplication;*

*(2) After the adoption of a law that conflicts with, overlaps, or duplicates other laws, the county shall:*

*(a) Notify the state and federal entities of the adoption of the law and the areas of conflict, overlap, and duplication; and*

*(b) Make every effort to coordinate implementation of the law with the appropriate state and federal entities.*

\*Sec. 35 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 36. This act applies prospectively only and not retroactively.

NEW SECTION. Sec. 37. Section 10 of this act shall take effect July 1, 1994.

NEW SECTION. Sec. 38. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 10, 1994.

Passed the Senate March 10, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to sections 4, 5, 6, 13, 16(2), 20, 23, 25, 34, and 35, Engrossed Second Substitute House Bill No. 2510 entitled:

"AN ACT Relating to the implementation of the recommendations of the governor's task force on regulatory reform;"

On August 9, 1993, I signed Executive Order 93-06. The Executive Order directed state agencies to initiate several efforts to coordinate among themselves and to provide better and more useful information to the public. I stated three goals for regulatory reform in the Executive Order. They are:

To institute immediate management improvements in state regulatory functions, reducing inefficiencies, conflicts, and delays.

To develop long-term solutions to complex regulatory issues that, if left unresolved, could impede the orderly growth and sustained economic development of the state.

To ensure that any regulatory reform solutions designed to support economic benefits to the state also ensure continued protection of the environment, the health, and the safety of our citizens.

The Executive Order also created the Governor's Task Force on Regulatory Reform, composed of representatives from a cross-section of state citizens and interest groups. The Task Force established three subcommittees to address the major issue areas set forth in the Executive Order and made its interim recommendation in its December 17, 1993 report upon which this legislation is based. The Task Force will continue its work through December 31, 1994 and will submit final recommendations to the Governor by December 1, 1994.

As introduced, House Bill No. 2510 met the goals I established for regulatory reform. I would have been able to sign all but one section had it passed as it was introduced. However, as passed by the Legislature, there are sections of Engrossed Second Substitute House Bill No. 2510 which I do not believe meet the goals I set for regulatory reform. In addition, many of the provisions of the bill would only increase the delays, bureaucracy, and paperwork of the rulemaking process imposing significant burdens on state agencies without providing any additional meaningful involvement or reduced burden for the regulated community. This is directly counter to the goals of regulatory reform.

While I am disappointed that I am unable to sign this bill in its entirety, there are several provisions I will soon incorporate into an Executive Order. In particular, the Executive Order will direct agencies engaged in rulemaking to evaluate criteria similar to those set forth in section 4 as proposed by the Task Force. I will also be directing agencies to increase the level of technical assistance they provide to businesses and to individuals intent on meeting state regulations but who may be unclear on how to comply.

Of all the issues addressed in the bill, section 4 served as the flash point for debate over regulatory reform during the 1994 Legislative Session. The Task Force, with considerable public comment, concluded that the state agencies needed additional direction in the rulemaking process and recommended a series of criteria for the agencies to consider before adopting a rule. I fully support the concept that agencies consider these criteria in their rulemaking process. However, section 4 strays from the carefully balanced approach in the original bill. The bill provided the proper direction to agencies without creating additional, unnecessary paperwork and avoided turning rulemaking into a judicial like process which only encourages litigation. If this section is allowed to become law, the only certainty is that litigation will ensue over the meaning of its various provisions.

In addition, the specific criteria set forth in section 4 go well beyond the criteria proposed in the original bill. For example, this section requires an agency to determine that any overlap, duplication or difference between the rule and any federal law is necessary to achieve the objectives of the statute. There are many circumstances where differences from federal rules may be justified to protect the safety and quality of life in our state, yet these provisions would make it nearly impossible for an agency to adopt rules on a subject over which the federal government has adopted rules or passed legislation.

Section 4 also requires an agency to determine that the likely costs of a rule justify its likely benefits. While the original bill required agencies to consider the economic and environmental consequences of adopting a rule, the cost benefit analysis approach in section 4 goes beyond that requirement. This provision mandates a time consuming, expensive and controversial process. Although it is appropriate for agencies to consider the benefits and costs of their actions, many of the factors which should be considered, such as health, safety and environmental concerns, do not lend themselves to a formal cost-benefit determination.

Section 4 also requires agencies to determine that there are no reasonable alternatives proposed during the rule-making process which are less burdensome on those required to comply. This criteria creates the unacceptable assumption that impacts on the regulated community should be the only consideration for an agency when it adopts a rule. Agencies should also consider the cost to the taxpayers, to the environment and to the public's safety.



Section 4, in combination with section 5, was identified by state agencies as being particularly expensive to implement. The legislature did not appropriate funds in the supplemental budget to defray the added costs which this section would impose. For all of the above reasons, I am vetoing section 4.

Section 5 applies only to rules subject to the provisions of section 4. Therefore, I am also vetoing section 5.

Section 6 amends an existing statute which allows a person to petition an agency to adopt, amend, or repeal a rule, by allowing an appeal of an agency's decision to the governor. Section 6 directs the petitioner to address several specific factors which the agencies are not required to consider when they engage in rule-making. By including these as elements of the petition, the implication is made that they are also standards for rule adoption when in fact they are not. For this reason, I am vetoing section 6.

Section 13 is a new section which incorporates part of the requirements currently included in RCW 19.85.060. Section 13 states that an agency is not required to prepare a small business economic impact statement if the rule is adopted in order to comply with federal law. RCW 19.85.060, which section 13 replaces, provides that an agency is not required to prepare the statement if the rule is adopted to comply with federal law or regulation. While this may have been an inadvertent action by the legislature, deletion of these words increases the circumstances under which agencies will need to prepare an impact statement even though the rule is required by the federal government. For this reason, I am vetoing section 13.

Section 16(2) repeals RCW 19.85.060, which contains the exemption addressed in section 13. Because I am vetoing section 13, I am also vetoing section 16(2).

Section 20 gives the Joint Administrative Rules Review Committee (JARRC) the ability to establish a rebuttable presumption in judicial proceedings that a rule does not comply with the legislature's intent. The Task Force included this recommendation in its report. It has been my wish to sign into law those recommendations in this bill which accurately reflect the recommendations of the Task Force. However, I have serious concerns about the constitutionality of this provision under the separation of powers doctrine. A committee of the legislature cannot be given authority to invalidate a rule. See, Immigration & Naturalization Service v. Chadha, 462 U.S. 919 (1983). Allowing a committee of the legislature to affect the legal status of an agency rule adopted in compliance with all statutory procedures is an unwarranted intrusion into the role of the executive branch.

Through section 19 of the bill the legislature's authority, to object to rules is enhanced by lowering the threshold vote necessary for JARRC to recommend suspension of a rule. In addition, if the governor does not suspend the rule, section 19 provides that JARRC's recommendation is treated by the agency as a petition to repeal the rule. JARRC also may recommend to the full Legislature corrective legislation if it is dissatisfied with the agency's response to its objections. These are appropriate means to increase the authority of JARRC. For these reasons, I am vetoing section 20.

Section 23 addresses the issue of technical assistance and its relationship to enforcement. The original bill included a provision requiring agencies to provide technical assistance as an alternative to traditional enforcement approaches. This provision was based on successful programs in the Department of Ecology and the Department of Labor and Industries. Many other agencies have also developed similar approaches to enforcement. Section 23 goes beyond this positive approach to technical assistance by allowing a business which requests assistance from a selected set of state agencies to avoid penalties for violation of any rules administered by the agency unless the business has previously violated the same rule or does so knowingly. While I support increased technical assistance from agencies and will include this in my Executive Order, I cannot support the idea that ignorance is an excuse to violate state rules. This provision will be more likely to further the confrontational approach many businesses have complained about instead of fostering cooperation between business and state regulators.

There is also a serious question about the constitutionality of this provision since it applies only to business entities. Article 1, section 12 of the Washington Constitution prohibits the granting of privileges and immunities to corporations that are not available to all others. Many individual citizens, as well as cities and counties, are required to comply with the same statutes and rules as businesses. They are not afforded the same favorable treatment this section would provide to business. For these reasons, I am vetoing section 23.

Section 25 modifies the requirements of the Administrative Procedure Act relating to the exhaustion of administrative remedies. A reference to the appeal provided for in section 6 is added. Since I have vetoed section 6, this section is also vetoed.

Sections 34 and 35 were added to Engrossed Second Substitute House Bill No. 2510 by the Conference Committee and received no discussion or debate prior to that time. They require city and county governments to expend considerable resources to coordinate their regulatory activities with the state and federal governments. As with so many sections of this bill, the goals of these two sections are sound. However, the requirements imposed by these two sections will only burden cities and counties without any benefit of the topic of coordinating local and state permitting and regulatory decisions is under active consideration by the Task Force. It is premature to enact these sections at this time. I am therefore vetoing sections 34 and 35.

With the exception of sections 4, 5, 6, 13, 16(2), 20, 23, 25, 34, and 35, Engrossed Second Substitute House Bill No. 2510 is approved."

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## CHAPTER 250

[Engrossed House Bill 2555]

### TRANSIENT ACCOMMODATIONS LICENSING AND INSPECTIONS

AN ACT Relating to transient accommodations licensing and inspections; amending RCW 70.62.200, 70.62.220, 70.62.240, 70.62.250, 70.62.260, 70.62.270, and 70.62.290; creating a new section; repealing RCW 70.62.230; and prescribing penalties.

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

**Sec. 1.** RCW 70.62.200 and 1971 ex.s. c 239 s 1 are each amended to read as follows:

The purpose of this chapter is to provide for the development, establishment, and enforcement of standards for the maintenance and operation of ~~((hotels and motels))~~ transient accommodations through a licensing program to promote the protection of the health and ~~((welfare))~~ safety of individuals using such accommodations in this state.

**Sec. 2.** RCW 70.62.220 and 1987 c 75 s 9 are each amended to read as follows:

The person operating a transient accommodation as defined in this chapter shall secure each year an annual operating license and shall pay a fee ~~((therefor))~~ to cover the cost of licensure and enforcement activities as established by the department under RCW ~~((43.20B.110))~~ 43.70.110 and 43.70.250. The ~~((annual))~~ initial licensure period shall run ~~((from January 1st through December 31st of each year))~~ for one year from the date of issuance, and the license shall be renewed annually on that date. The license fee shall be paid to the department ~~((prior to the time the license is issued and such))~~. The license shall be

conspicuously displayed in the lobby or office of the facility for which it is issued.

**Sec. 3.** RCW 70.62.240 and 1971 ex.s. c 239 s 5 are each amended to read as follows:

The board shall ~~((promulgate))~~ adopt such rules ~~((and regulations, to be effective no sooner than February 1, 1972,))~~ as may be necessary to assure that each transient accommodation will be operated and maintained in a manner consistent with the health and ~~((welfare))~~ safety of the members of the public using such facilities. Such rules ~~((and regulations))~~ shall provide for adequate light, heat, ventilation, cleanliness, and sanitation and shall include provisions to assure adequate maintenance. All rules ~~((and regulations))~~ and amendments thereto shall be adopted in conformance with the provisions of chapter 34.05 RCW.

**Sec. 4.** RCW 70.62.250 and 1971 ex.s. c 239 s 6 are each amended to read as follows:

The department is hereby granted and shall have and exercise, in addition to the powers herein granted, all the powers necessary and appropriate to carry out and execute the purposes of this chapter, including but not limited to the power:

(1) To develop such rules ~~((and regulations))~~ for proposed adoption by the board as may be necessary to implement the purposes of this chapter;

(2) To enter and inspect any transient accommodation at any reasonable time ~~((any transient accommodation and))~~;

(a) Prior to initial licensure;

(b) To conduct annual verification surveys of at least ten percent of licensed facilities; and

(c) To make such investigations as are reasonably necessary to carry out the provisions of this chapter and any rules ~~((and regulations promulgated thereunder))~~ adopted under this chapter; PROVIDED, That no room or suite shall be entered for inspection unless said room or suite is not occupied by any patron or guest of the transient accommodation at the time of entry;

(3) To develop and use alternative survey methods which encourage the person operating a transient accommodation to self-inspect and thereby comply with this chapter and rules adopted under this chapter;

(4) To perform such other duties and employ such personnel as may be necessary to carry out the provisions of this chapter; and

~~((4))~~ (5) To administer and enforce the provisions of this chapter and the rules ~~((and regulations promulgated thereunder))~~ adopted under this chapter by the board.

NEW SECTION. **Sec. 5.** The 1994 amendments to RCW 70.62.250, section 4, chapter . . . , Laws of 1994 (this act), expire on June 30, 1997, unless specifically extended by the legislature by an act of law. The department of

health shall report to the legislature by December 1, 1996, on the impact of these amendments on transient accommodation licensees in the state of Washington.

**Sec. 6.** RCW 70.62.260 and 1971 ex.s. c 239 s 7 are each amended to read as follows:

No person shall operate a transient accommodation as defined in this chapter without having a valid license issued by the department. Applications for ~~((a license to operate))~~ a transient accommodation license shall be filed with the department ~~((prior to July 1, 1971, and one-half of the annual license fee shall be included with the application))~~ sixty days or more before initiating business as a transient accommodation. All licenses issued under the provisions of this chapter shall expire ~~((on the first day of January next succeeding))~~ one year from the effective date ((of issue)). All applications for renewal of licenses shall be made ~~((not later than))~~ thirty days or more prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application.

**Sec. 7.** RCW 70.62.270 and 1971 ex.s. c 239 s 8 are each amended to read as follows:

(1) Licenses issued under this chapter may be suspended or revoked upon the failure or refusal of the person operating a transient accommodation to comply with the provisions of this chapter, or of any rules ((and regulations)) adopted under this chapter by the board ((hereunder)). All such proceedings shall be governed by the provisions of chapter 34.05 RCW.

(2) In lieu of or in addition to license suspension or revocation, the department may assess a civil fine in accordance with RCW 43.70.095.

**Sec. 8.** RCW 70.62.290 and 1986 c 266 s 95 are each amended to read as follows:

Rules ~~((and regulations))~~ establishing fire and life safety requirements, not inconsistent with the provisions of this chapter, shall continue to be ~~((promulgated and enforced))~~ adopted by the director of community, trade, and economic development, through the director of fire protection.

NEW SECTION. **Sec. 9.** RCW 70.62.230 and 1987 c 75 s 10, 1982 c 201 s 11, & 1971 ex.s. c 239 s 4 are each repealed.

Passed the House March 7, 1994.

Passed the Senate March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 251

[House Bill 2558]

UTILITIES AND TRANSPORTATION COMPANIES—SECURITIES  
ISSUANCE—REGULATION

AN ACT Relating to the regulation by the utilities and transportation commission of securities issued by regulated utilities and transportation companies; amending RCW 80.08.040, 80.08.100, 80.08.110, 80.08.120, 80.08.130, 81.08.040, 81.08.100, 81.08.110, 81.08.120, and 81.08.130; adding a new section to chapter 80.08 RCW; adding a new section to chapter 81.08 RCW; repealing RCW 80.08.045, 80.08.050, 80.08.060, 80.08.105, 81.08.050, 81.08.060, and 81.08.105; and prescribing penalties.

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

Sec. 1. RCW 80.08.040 and 1987 c 106 s 1 are each amended to read as follows:

~~((Except as provided in RCW 80.08.045, application for authorization to issue such stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness shall be made to the commission stating the amount, character, terms and purpose of each proposed issue thereof, and stating such other pertinent details as the commission may require.~~

~~To enable it to determine whether it will issue such order, the commission may hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts, and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issuance of such stocks or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary.~~

~~If a commission or other agency or agencies is empowered by another state to regulate and control the amount and character of securities to be issued by any public service company within such other state, then the commission shall have the power to agree with such commission or other agency or agencies of such other state on the issuance of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness by a public service company owning or operating a public utility both in such state and in this state, and shall have the power to approve such issue jointly with such commission or other agency or agencies and to issue a joint certificate of such approval. PROVIDED, HOWEVER, That no such joint approval shall be required in order to express the consent to and approval of such issue by the state of Washington if said issue is separately approved by the commission.~~

~~The public service company making the application may have the decision or order of the commission reviewed in the courts in the same manner and by the same procedure as any other order or decision of the commission, when the public service company shall deem such decision or order to be in any respect or manner improper, unjust or unreasonable.)) Any public service company that~~

undertakes to issue stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidences of indebtedness shall file with the commission before such issuance:

(1) A description of the purposes for which the issuance is made, including a certification by an officer authorized to do so that the proceeds from any such financing is for one or more of the purposes allowed by this chapter;

(2) A description of the proposed issuance including the terms of financing; and

(3) A statement as to why the transaction is in the public interest.

(4) Any public service company undertaking an issuance and making a filing in conformance with this section may at any time of such filing request the commission to enter a written order that such company has complied with the requirements of this section. The commission shall enter such written order after such company has provided all information and statements required by subsections (1), (2), and (3) of this section.

Sec. 2. RCW 80.08.100 and 1961 c 14 s 80.08.100 are each amended to read as follows:

~~((A)) If a public service company issues any stock ((and every stock certificate)), or other evidence of interest or ownership, ((and every)) bond, note, or other evidence of indebtedness ((of a public service company, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued with the authorization of the commission, but not conforming in substance in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice)) contrary to the provisions of this chapter, the company may be subject to penalty under RCW 80.08.110 and 80.08.120.~~

Sec. 3. RCW 80.08.110 and 1961 c 14 s 80.08.110 are each amended to read as follows:

Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with ~~((the order of the commission authorizing the same, or contrary to))~~ the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes ~~((specified in the commission's order, as herein provided or to any purpose specified in the~~

~~commission's order in excess of the amount in said order authorized for such purpose))~~ allowed by this chapter, shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation ~~((of any such order, rules, direction, demand or requirement of the commission, or of any provision of this chapter,))~~ shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission or failure of any officer, agent or employee of any public service company acting within the scope of his official duties or employment, shall in every case be deemed to be the act, omission or failure of such public service company.

Sec. 4. RCW 80.08.120 and 1961 c 14 s 80.08.120 are each amended to read as follows:

Every officer, agent, or employee of a public service company, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness ~~((in nonconformity with the order of the commission authorizing the same, or))~~ contrary to the provisions of this chapter, or who ~~((in any proceedings before the commission,))~~ knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation ~~((which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issuance of any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission in any proceedings tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies)),~~ or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, to any purpose not ~~((specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose))~~ allowed by this chapter, or who, with knowledge that any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this chapter, negotiates, or causes the same to be negotiated, shall be guilty of a gross misdemeanor.

Sec. 5. RCW 80.08.130 and 1961 c 14 s 80.08.130 are each amended to read as follows:

~~((No))~~ Any public service company ((shall henceforth)) that assumes any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than twelve months after the date thereof, ((without having first secured from the commission an order authorizing it so to do. Every such assumption made other than in accordance with the order of the commission authorizing the same shall be void)) shall comply with the filing requirements of RCW 80.08.040.

NEW SECTION. Sec. 6. A new section is added to chapter 80.08 RCW to read as follows:

No action by a public service company in compliance with nor by the commission in conformance with the requirements of this chapter may in any way affect the authority of the commission over rates, service, accounts, valuations, estimates, or determinations of costs, or any matters whatsoever that may come before it.

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

- (1) RCW 80.08.045 and 1987 c 106 s 2;
- (2) RCW 80.08.050 and 1961 c 14 s 80.08.050;
- (3) RCW 80.08.060 and 1961 c 14 s 80.08.060; and
- (4) RCW 80.08.105 and 1983 c 4 s 10 & 1961 c 14 s 80.08.105.

Sec. 8. RCW 81.08.040 and 1961 c 14 s 81.08.040 are each amended to read as follows:

~~((Application for authorization to issue such stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness shall be made to the commission stating the amount, character, terms and purpose of each proposed issue thereof, and stating such other pertinent details as the commission may require.~~

~~To enable it to determine whether it will issue such order, the commission may hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts, and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issuance of such stocks or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary.~~

~~If a commission or other agency or agencies is empowered by another state to regulate and control the amount and character of securities to be issued by any public service company within such other state, then the commission shall have the power to agree with such commission or other agency or agencies of such~~



~~other state on the issuance of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness by a public service company owning or operating a public utility both in such state and in this state, and shall have the power to approve such issue jointly with such commission or other agency or agencies and to issue a joint certificate of such approval: PROVIDED, HOWEVER, That no such joint approval shall be required in order to express the consent to and approval of such issue by the state of Washington if said issue is separately approved by the commission.~~

~~The public service company making the application may have the decision or order of the commission reviewed in the courts in the same manner and by the same procedure as any other order or decision of the commission, when the public service company shall deem such decision or order to be in any respect or manner improper, unjust or unreasonable.)~~ Any public service company that undertakes to issue stocks, stock certificates, other evidence of interest or ownership, bonds, notes, or other evidences of indebtedness shall file with the commission before such issuance:

(1) A description of the purposes for which the issuance is made, including a certification by an officer authorized to do so that the proceeds from any such financing is for one or more of the purposes allowed by this chapter;

(2) A description of the proposed issuance including the terms of financing;  
and

(3) A statement as to why the transaction is in the public interest.

**Sec. 9.** RCW 81.08.100 and 1961 c 14 s 81.08.100 are each amended to read as follows:

~~((A)) If a public service company issues any stock ((and every))<sub>2</sub> stock certificate, or other evidence of interest or ownership, ((and every)) bond, note, or other evidence of indebtedness, ((of a public service company, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued with the authorization of the commission, but not conforming in substance in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice)) contrary to the provisions of this chapter, the company may be subject to penalty under RCW 81.08.110 and 81.08.120.~~

**Sec. 10.** RCW 81.08.110 and 1961 c 14 s 81.08.110 are each amended to read as follows:

Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with ~~((the order of the commission authorizing the same, or contrary to))~~ the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes ~~((specified in the commission's order, as herein provided or to any purpose specified in the commission's order in excess of the amount in said order authorized for such purpose))~~ allowed by this chapter shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation of any such order, rules, direction, demand or requirement of the department, or of any provision of this chapter, shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission or failure of any officer, agent or employee of any public service company acting within the scope of his official duties or employment, shall in every case be deemed to be the act, omission or failure of such public service company.

**Sec. 11.** RCW 81.08.120 and 1961 c 14 s 81.08.120 are each amended to read as follows:

Every officer, agent, or employee of a public service company, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness ~~((in nonconformity with the order of the commission authorizing the same, or))~~ contrary to the provisions of this chapter, or who ~~((in any proceedings before the commission,))~~ knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation ~~((which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issuance of any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission in any proceedings tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies,))~~ or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, to any purpose not ~~((specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose,))~~ allowed by this chapter or

who, with knowledge that any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this chapter negotiates, or causes the same to be negotiated, shall be guilty of a gross misdemeanor.

**Sec. 12.** RCW 81.08.130 and 1961 c 14 s 81.08.130 are each amended to read as follows:

~~((No))~~ Any public service company ~~((shall henceforth))~~ that assumes any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than twelve months after the date thereof, ~~((without having first secured from the commission an order authorizing it so to do. Every such assumption made other than in accordance with the order of the commission authorizing the same shall be void))~~ shall comply with the filing requirements of RCW 81.08.040.

NEW SECTION. **Sec. 13.** A new section is added to chapter 81.08 RCW to read as follows:

No action by a public service company in compliance with nor by the commission in conformance with the requirements of this chapter may in any way affect the authority of the commission over rates, service, accounts, valuations, estimates, or determinations of costs, or any matters whatsoever that may come before it.

NEW SECTION. **Sec. 14.** The following acts or parts of acts are each repealed:

- (1) RCW 81.08.050 and 1961 c 14 s 81.08.050;
- (2) RCW 81.08.060 and 1961 c 14 s 81.08.060; and
- (3) RCW 81.08.105 and 1983 c 4 s 11 & 1961 c 14 s 81.08.105.

Passed the House March 7, 1994.

Passed the Senate March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 252

[Second Substitute House Bill 2616]

### PUBLIC WATER SYSTEMS—VOLUNTARY TESTING PROGRAM FOR CHEMICALS

AN ACT Relating to ground water testing; amending RCW 70.119A.020 and 70.105D.070; adding new sections to chapter 70.119A RCW; creating a new section; and declaring an emergency. Be it enacted by the Legislature of the State of Washington:

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

(1) The federal safe drinking water act has imposed significant new costs on public water systems and that the state should seek maximum regulatory flexibility allowed under federal law;

(2) There is a need to comprehensively assess and characterize the ground waters of the state to evaluate public health risks from organic and inorganic chemicals regulated under federal law;

(3) That federal law provides a mechanism to significantly reduce testing and monitoring costs to public water systems through the use of area-wide waivers.

The legislature therefore directs the department of health to conduct a voluntary program to selectively test the ground waters of the state for organic and inorganic chemicals regulated under federal law for the purpose of granting area-wide waivers.

**Sec. 2.** RCW 70.119A.020 and 1991 c 304 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the following definitions apply throughout this chapter:

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

(2) "Local board of health" means the city, town, county, or district board of health.

(3) "Local health jurisdiction" means an entity created under chapter 70.05, 70.08, or 70.46 RCW which provides public health services to persons within the area.

(4) "Public water system" means any system, excluding a system serving only one single-family residence and a system with four or fewer connections all of which serve residences on the same farm, providing piped water for human consumption, including any collection, treatment, storage, or distribution facilities under control of the purveyor and used primarily in connection with the system; and collection or pretreatment storage facilities not under control of the purveyor but primarily used in connection with the system, including:

(a) Any collection, treatment, storage, and distribution facilities under control of the purveyor and used primarily in connection with such system; and

(b) Any collection or pretreatment storage facilities not under control of the purveyor which are primarily used in connection with such system.

(5) "Order" means a written direction to comply with a provision of the regulations adopted under RCW 43.20.050(2)(a) or 70.119.050 or to take an action or a series of actions to comply with the regulations.

(6) "Purveyor" means any agency or subdivision of the state or any municipal corporation, firm, company, mutual or cooperative association, institution, partnership, or person or any other entity, that owns or operates a public water system. It also means the authorized agents of any such entities.

(7) "Regulations" means rules adopted to carry out the purposes of this chapter.

(8) "Federal safe drinking water act" means the federal safe drinking water act, 42 U.S.C. Sec. 300f et seq., as now in effect or hereafter amended.

(9) "Area-wide waivers" means a waiver granted by the department as a result of a geographically based testing program meeting required provisions of the federal safe drinking water act.

(10) "Local health officer" means the legally qualified physician who has been appointed as the health officer for the city, town, county, or district public health department.

~~((10))~~ (11) "Person" includes, but is not limited to, natural persons, municipal corporations, governmental agencies, firms, companies, mutual or cooperative associations, institutions, and partnerships. It also means the authorized agents of any such entities.

~~((11))~~ (12) "Public health emergency" means a declaration by an authorized health official of a situation in which either illness, or exposure known to cause illness, is occurring or is imminent.

~~((12))~~ (13) "Secretary" means the secretary of the department of health.

~~((13))~~ (14) "State board of health" is the board created by RCW 43.20.030.

NEW SECTION. Sec. 3. A new section is added to chapter 70.119A RCW to read as follows:

The department shall develop and implement a voluntary program sufficient to allow public water systems to be waived from full testing requirements for organic and inorganic chemicals under the federal safe drinking water act. The department shall pay the initial testing and programmatic costs for the area-wide waiver program. The department shall assess a fee using its authority under RCW 43.20B.020, sufficient to cover all testing and directly related costs to public water systems that apply for an area-wide waiver. The department shall adjust the amount of the fee based on the size of the public drinking water system. Fees charged by the department may not vary by more than a factor of ten. The department shall, to the maximum extent possible, use the services of local governments, local health departments, and private laboratories to implement the area-wide testing program. The department shall consult with the departments of agriculture and ecology for the purpose of exchanging water quality and other information.

NEW SECTION. Sec. 4. A new section is added to chapter 70.119A RCW to read as follows:

By December 1, 1994, the department shall submit a brief report to the appropriate standing committees of the legislature on the following:

- (1) The water quality characteristics of the public water systems sampled;
- (2) The number of waivers granted to public water systems;
- (3) The fees charged to public water systems and the expected timeline for collecting the fees;
- (4) The total amount saved by public water systems through the area-wide waiver;
- (5) Recommendations for additional opportunities to grant area-wide waivers and a summary of associated costs; and

(6) Any other information deemed relevant by the department.

**Sec. 5.** RCW 70.105D.070 and 1991 sp.s. c 13 s 69 are each amended to read as follows:

(1) The state toxics control account and the local toxics control account are hereby created in the state treasury.

(2) The following moneys shall be deposited into the state toxics control account: (a) Those revenues which are raised by the tax imposed under RCW 82.21.030 and which are attributable to that portion of the rate equal to thirty-three one-hundredths of one percent; (b) the costs of remedial actions recovered under this chapter or chapter 70.105A RCW; (c) penalties collected or recovered under this chapter; and (d) any other money appropriated or transferred to the account by the legislature. Moneys in the account may be used only to carry out the purposes of this chapter, including but not limited to the following activities:

(i) The state's responsibility for hazardous waste planning, management, regulation, enforcement, technical assistance, and public education required under chapter 70.105 RCW;

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

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

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

(v) Financial assistance for local programs in accordance with (~~RCW 70.95.130, 70.95.140, 70.95.220, 70.95.230, 70.95.530, 70.105.220, 70.105.225, 70.105.235, and 70.105.260~~) chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

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

(vii) Hazardous materials emergency response training;

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

(ix) Programs authorized under chapter 70.146 RCW;

(x) A public participation program, including regional citizen advisory committees;

(xi) Public funding to assist potentially liable persons to pay for the costs of remedial action in compliance with cleanup standards under RCW 70.105D.030(2)(d) but only when the amount and terms of such funding are established under a settlement agreement under RCW 70.105D.040(4) and when the director has found that the funding will achieve both (A) a substantially more expeditious or enhanced cleanup than would otherwise occur, and (B) the prevention or mitigation of unfair economic hardship; and

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

(3) The following moneys shall be deposited into the local toxics control account: Those revenues which are raised by the tax imposed under RCW

82.21.030 and which are attributable to that portion of the rate equal to thirty-seven one-hundredths of one percent.

(a) Moneys deposited in the local toxics control account shall be used by the department for grants or loans to local governments for the following purposes in descending order of priority: ~~((a))~~ (i) Remedial actions; ~~((b))~~ (ii) hazardous waste plans and programs under ~~((RCW 70.105.220, 70.105.225, 70.105.235, and 70.105.260))~~ chapter 70.105 RCW; and ~~((c))~~ (iii) solid waste plans and programs under ~~((RCW 70.95.130, 70.95.140, 70.95.220, and 70.95.230))~~ chapters 70.95, 70.95C, 70.95I, and 70.105 RCW. Funds for plans and programs shall be allocated consistent with the priorities and matching requirements established in chapters 70.105, 70.95C, 70.95I, and 70.95 RCW.

(b) Funds may also be appropriated to the department of health to implement programs to reduce testing requirements under the federal safe drinking water act for public water systems. The department of health shall reimburse the account from fees assessed under section 3 of this act by June 30, 1995.

(4) Except for unanticipated receipts under RCW 43.79.260 through 43.79.282, moneys in the state and local toxics control accounts may be spent only after appropriation by statute.

(5) One percent of the moneys deposited into the state and local toxics control accounts shall be allocated only for public participation grants to persons who may be adversely affected by a release or threatened release of a hazardous substance and to not-for-profit public interest organizations. The primary purpose of these grants is to facilitate the participation by persons and organizations in the investigation and remedying of releases or threatened releases of hazardous substances and to implement the state's solid and hazardous waste management priorities. No grant may exceed fifty thousand dollars though it may be renewed annually. Moneys appropriated for public participation from either account which are not expended at the close of any biennium shall revert to the state toxics control account.

(6) No moneys deposited into either the state or local toxics control account may be used for solid waste incinerator feasibility studies, construction, maintenance, or operation.

(7) The department shall adopt rules for grant or loan issuance and performance.

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

Passed the House February 12, 1994.

Passed the Senate March 8, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 253

[Engrossed Substitute Senate Bill 6068]

## ENVIRONMENTAL HEARINGS BOARDS—APPEALS

AN ACT Relating to appeals involving boards within the environmental hearings office; amending RCW 90.58.170, 90.58.180, 43.21C.075, 43.21B.180, 43.21B.190, 43.21B.230, and 76.09.230; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.21B RCW; and creating new sections.

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

**Sec. 1.** RCW 90.58.170 and 1988 c 128 s 76 are each amended to read as follows:

A shorelines hearings board sitting as a quasi judicial body is hereby established within the environmental hearings office under RCW 43.21B.005. The shorelines hearings board shall be made up of six members: Three members shall be members of the pollution control hearings board; two members, one appointed by the association of Washington cities and one appointed by the association of county commissioners, both to serve at the pleasure of the associations; and the commissioner of public lands or his or her designee. The chairman of the pollution control hearings board shall be the chairman of the shorelines hearings board. Except as provided in section 2 of this act, a decision must be agreed to by at least four members of the board to be final. The members of the shorelines (~~appeals~~) board shall receive the compensation, travel, and subsistence expenses as provided in RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 2.** A new section is added to chapter 90.58 RCW to read as follows:

(1) In the case of an appeal involving a single family residence or appurtenance to a single family residence, including a dock or pier designed to serve a single family residence, the request for review may be heard by a panel of three board members, at least one and not more than two of whom shall be members of the pollution control hearings board. Two members of the three must agree to issue a final decision of the board.

(2) The board shall define by rule alternative processes to expedite appeals. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals.

**Sec. 3.** RCW 90.58.180 and 1989 c 175 s 183 are each amended to read as follows:

(1) Any person aggrieved by the granting, denying, or rescinding of a permit on shorelines of the state pursuant to RCW 90.58.140 may seek review from the shorelines hearings board by filing a request for the same within thirty days of the date of filing as defined in RCW 90.58.140(6).

Concurrently with the filing of any request for review with the board as provided in this section pertaining to a final order of a local government, the requestor shall file a copy of his or her request with the department and the attorney general. If it appears to the department or the attorney general that the



requestor has valid reasons to seek review, either the department or the attorney general may certify the request within thirty days after its receipt to the shorelines hearings board following which the board shall then, but not otherwise, review the matter covered by the requestor(~~(- PROVIDED, That)~~). The failure to obtain such certification shall not preclude the requestor from obtaining a review in the superior court under any right to review otherwise available to the requestor. The department and the attorney general may intervene to protect the public interest and insure that the provisions of this chapter are complied with at any time within fifteen days from the date of the receipt by the department or the attorney general of a copy of the request for review filed pursuant to this section. The shorelines hearings board shall initially schedule review proceedings on such requests for review without regard as to whether such requests have or have not been certified or as to whether the period for the department or the attorney general to intervene has or has not expired, unless such review is to begin within thirty days of such scheduling. If at the end of the thirty day period for certification neither the department nor the attorney general has certified a request for review, the hearings board shall remove the request from its review schedule.

(2) The department or the attorney general may obtain review of any final order granting a permit, or granting or denying an application for a permit issued by a local government by filing a written request with the shorelines hearings board and the appropriate local government within thirty days from the date the final order was filed as provided in RCW 90.58.140(6).

(3) The review proceedings authorized in subsections (1) and (2) of this section are subject to the provisions of chapter 34.05 RCW pertaining to procedures in adjudicative proceedings. Judicial review of such proceedings of the shorelines hearings board (~~(may be had as provided in)~~) is governed by chapter 34.05 RCW.

(4) A local government may appeal to the shorelines hearings board any rules, regulations, or guidelines adopted or approved by the department within thirty days of the date of the adoption or approval. The board shall make a final decision within sixty days following the hearing held thereon.

If the board determines that the rule, regulation, or guideline:

- (a) Is clearly erroneous in light of the policy of this chapter; or
- (b) Constitutes an implementation of this chapter in violation of constitutional or statutory provisions; or
- (c) Is arbitrary and capricious; or
- (d) Was developed without fully considering and evaluating all material submitted to the department by the local government; or
- (e) Was not adopted in accordance with required procedures;

the board shall enter a final decision declaring the rule, regulation, or guideline invalid, remanding the rule, regulation, or guideline to the department with a statement of the reasons in support of the determination, and directing the department to adopt, after a thorough consultation with the affected local

government, a new rule, regulation, or guideline. Unless the board makes one or more of the determinations as hereinbefore provided, the board shall find the rule, regulation, or guideline to be valid and enter a final decision to that effect.

(5) Rules, regulations, and guidelines shall be subject to review in superior court, if authorized pursuant to RCW (~~34.05.538: PROVIDED, That~~) 34.05.570(2). No review shall be granted by a superior court on petition from a local government unless the local government shall first have obtained review under subsection (4) of this section and the petition for court review is filed within three months after the date of final decision by the shorelines hearings board.

**Sec. 4.** RCW 43.21C.075 and 1983 c 117 s 4 are each amended to read as follows:

(1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall not allow more than one agency appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement), consistent with any state statutory requirements for appeals to local legislative bodies. The appeal proceeding on a determination of significance/nonsignificance may occur before the agency's final decision on a proposed action. Such an appeal shall also be allowed for a determination of significance/nonsignificance which may be issued by the agency after supplemental review;

(b) Shall consolidate appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) by providing for simultaneous appeal of an agency decision on a proposal and any environmental determinations made under this chapter, with the exception of the threshold determination appeal as provided in (a) of this subsection or an appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to

be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this ~~((paragraph))~~ subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an appeal procedure, such person shall, prior to seeking any judicial review, use such procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). This section does not modify any such time periods. This section governs when a judicial appeal must be brought under this chapter where a "notice of action" is used, and/or where there is another time period which is required by statute or ordinance for challenging the underlying governmental action. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within thirty days. The agency shall give official notice stating the date and place for commencing an appeal. If there is an agency proceeding under subsection (3) of this section, the appellant shall, prior to commencing a judicial appeal, submit to the responsible official a notice of intent to commence a judicial appeal. This notice of intent shall be given within the time period for commencing a judicial appeal on the underlying governmental action.

(b) A notice of action under RCW 43.21C.080 may be used. If a notice of action is used, judicial appeals shall be commenced within the time period specified by RCW 43.21C.080, unless there is a time period for appealing the underlying governmental action in which case (a) of this subsection shall apply.

(c) Notwithstanding RCW 43.21C.080(1), if there is a time period for appealing the underlying governmental action, a notice of action may be published within such time period.

(6)(a) Judicial review of an appeal decision made by an agency under RCW 43.21C.075(5) shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to

issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and said certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2) and (3)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. The word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorney's fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific findings that the legal position of a party is frivolous and without reasonable basis.

NEW SECTION. Sec. 5. A new section is added to chapter 43.21B RCW to read as follows:

In an appeal that involves a penalty of five thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite small appeals. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals.

Sec. 6. RCW 43.21B.180 and 1989 c 175 s 104 are each amended to read as follows:

Judicial review of a decision of the hearings board (~~(shall be de novo except when the decision has been rendered pursuant to a formal hearing elected under the provisions of this chapter, in which event judicial review))~~ may be obtained only pursuant to RCW 34.05.510 through 34.05.598. The director shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person.

**Sec. 7.** RCW 43.21B.190 and 1988 c 202 s 43 are each amended to read as follows:

Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, (~~or within thirty days after an appeal has been denied after an informal hearing,~~) such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. In all appeals involving a decision or an order of the hearings board after an informal hearing, the petition shall be filed in the superior court for the county of the petitioner's residence or principal place of business, or in the absence of a residence or principal place of business, for Thurston county. Such appeal may be perfected by filing with the clerk of the superior court a notice of appeal, and by serving a copy thereof by mail, or personally on the director, the air pollution control boards or authorities, established pursuant to chapter 70.94 RCW or on the board as the case may be. The hearings board shall serve upon the appealing party, the director, the air pollution control board or authorities established pursuant to chapter 70.94 RCW, or the board, as the case may be, and on any other party appearing at the hearings board's proceeding, and file with the clerk of the court before trial, a certified copy of the hearings board's decision and order. Appellate review of a decision of the superior court may be sought as in other civil cases. No bond shall be required on appeals to the superior court or on review by the supreme court unless specifically required by the judge of the superior court.

**Sec. 8.** RCW 43.21B.230 and 1990 c 65 s 6 are each amended to read as follows:

Any person having received notice of a denial of a petition, a notice of determination, notice of or an order made by the department may appeal, within thirty days from the date of the notice of such denial, order, or determination to the hearings board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board. (~~If the person intends that the hearing before the hearings board be a formal one, the notice of appeal shall so state. In the event that the notice of appeal does not so state, the hearing shall be an informal one.~~ **PROVIDED, HOWEVER,** That nothing shall prevent the department or the air pollution authority, as the case may be, within ten days from the date of its

~~receipt of the notice of appeal, from filing with the clerk of the hearings board notice of its intention that the hearing be a formal one.))~~

**Sec. 9.** RCW 76.09.230 and 1992 c 52 s 23 are each amended to read as follows:

~~(1) ((In all appeals over which the appeals board has jurisdiction, a party taking an appeal may elect either a formal or an informal hearing, unless such party has had an informal hearing with the department. Such election shall be made according to the rules of practice and procedure to be promulgated by the appeals board. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.~~

~~(2))~~ (2)) In all appeals over which the appeals board has jurisdiction, upon request of one or more parties and with the consent of all parties, the appeals board shall promptly schedule a conference for the purpose of attempting to mediate the case. The mediation conference shall be held prior to the hearing on not less than seven days' advance written notice to all parties. All other proceedings pertaining to the appeal shall be stayed until completion of mediation, which shall continue so long as all parties consent: PROVIDED, That this shall not prevent the appeals board from deciding motions filed by the parties while mediation is ongoing: PROVIDED, FURTHER, That discovery may be conducted while mediation is ongoing if agreed to by all parties. Mediation shall be conducted by an administrative appeals judge or other duly authorized agent of the appeals board who has received training in dispute resolution techniques or has a demonstrated history of successfully resolving disputes, as determined by the appeals board. A person who mediates in a particular appeal shall not participate in a hearing on that appeal or in writing the decision and order in the appeal. Documentary and other physical evidence presented and evidence of conduct or statements made during the course of mediation shall be treated by the mediator and the parties in a confidential manner and shall not be admissible in subsequent proceedings in the appeal except in accordance with the provisions of the Washington rules of evidence pertaining to compromise negotiations.

~~((3))~~ (2) In all appeals the appeals board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions, but such powers shall be exercised in conformity with chapter 34.05 RCW.

~~((4))~~ (3) In all appeals ~~((involving formal hearing))~~ the appeals board, and each member thereof, shall be subject to all duties imposed upon and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings.

~~((5))~~ (4) All proceedings ~~((, including both formal and informal hearings,))~~ before the appeals board or any of its members shall be conducted in accordance with such rules of practice and procedure as the board may prescribe. The appeals board shall publish such rules and arrange for the reasonable distribution thereof.

~~((6))~~ (5) Judicial review of a decision of the appeals board ~~((shall be de novo except when the decision has been rendered pursuant to the formal hearing, in which event judicial review))~~ may be obtained only pursuant to RCW 34.05.510 through 34.05.598.

**NEW SECTION.** Sec. 10. The office of the administrator for the courts, under the direction of the appellate courts, shall conduct a study to expedite appeals from administrative hearings. The study shall be conducted in close cooperation with the environmental hearings office. Recommendations from the study shall be made to the appropriate standing committees of the legislature by September 1, 1994.

**\*NEW SECTION.** Sec. 11. (1) *The environmental hearings office shall review and make recommendations regarding the consolidation of the following boards into a single board with jurisdiction over such land use and environmental decisions as such boards collectively exercise under current law:*

- (a) *Pollution control hearings board;*
- (b) *Growth planning hearings boards;*
- (c) *Shorelines hearings board;*
- (d) *Hydraulics appeals board; and*
- (e) *Forest practices appeals board.*

*The office shall review the caseloads, staffing, and appeal procedures of such boards, as well as current and anticipated caseloads in view of future regulatory, planning or other requirements likely to impact the caseloads of such boards.*

(2) *The office shall include the results of its review in a report to the governor and the standing committees of the legislature on environmental and judiciary matters on or before December 1, 1994. The report shall include recommendations on whether such board consolidation may achieve administrative efficiencies while ensuring timely resolution of all matters which may be considered by such a board. The report shall also include recommendations on board size, staffing, and other considerations relevant to consolidation of the existing boards.*

\*Sec. 11 was vetoed, see message at end of chapter.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to section 11, Engrossed Substitute Senate Bill No. 6068 entitled:

"AN ACT Relating to appeals involving boards within the Environmental Hearings Office;"

This is a thoughtful piece of legislation helping to reduce the time it takes for the Environmental Hearings Office and its constituent boards to resolve environmental

disputes consistent with maintaining the quality of the state's environment. It is a part of larger efforts at regulatory reform designed to maintain the state's environmental quality and high standards while simplifying the regulatory and dispute resolution process.

Section 11 directs the Environmental Hearings Office to review and make recommendations as to whether the Pollution Control Hearings Board, the Growth Planning Hearings Boards, the Shorelines Hearings Boards, the Hydraulic Appeals Board, and the Forest Practices Appeals Board should be consolidated into a single board with jurisdiction over land use and environmental decisions.

While I am always interested in efforts to increase governmental efficiency, I do not agree with the provision as drafted. It is not clear why a study to consolidate state environmental boards should be conducted by the office managing some of the functions to be consolidated. Any such review should be undertaken independently if it is to achieve the desired results. It is also not clear to me that consolidation of these boards, of itself, would reduce any backlogs or delays which are a function of workload and resources.

The Regulatory Reform Task Force is currently reviewing the relationship between the State Environmental Policy Act, the Growth Management Act, the Shoreline Management Act, and other statutes. The goal of its efforts is to provide recommendations for ways to integrate land use and environmental review statutes so that they will continue to protect the state's environment and quality of life while simplifying and unifying regulations. I believe that it is better to allow this task force to complete its review and to make recommendations before approving an additional study of this topic.

For these reasons, I have vetoed section 11 of Engrossed Substitute Senate Bill No. 6068.

With the exception of section 11, Engrossed Substitute Senate Bill No. 6068 is approved."

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## CHAPTER 254

[Engrossed Substitute Senate Bill 6123]

### MODEL TOXICS CONTROL ACT—INDUSTRIAL PROPERTIES CLEANUP—SOLID WASTE

AN ACT Relating to authority of the state under the model toxics control act; amending RCW 70.105D.010, 70.105D.020, 70.105D.030, 70.105D.040, and 70.105.050; and adding new sections to chapter 70.105 RCW.

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

**Sec. 1.** RCW 70.105D.010 and 1989 c 2 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 this act 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.

Sec. 2. RCW 70.105D.020 and 1989 c 2 s 2 are each amended to read as follows:

(1) "Agreed order" means an order issued by the department under this chapter with which the potentially liable person receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide eligibility for public funding of remedial actions under RCW 70.105D.070(2)(d)(xi).

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

~~((2))~~ (3) "Director" means the director of ecology or the director's designee.

~~((3))~~ (4) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

~~((4))~~ (5) "Federal cleanup law" means the federal comprehensive environmental response, compensation, and liability act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

~~((5))~~ (6) "Hazardous substance" means:

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

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

(c) Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);

(d) Petroleum or petroleum products; and

(e) Any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

~~((6))~~ (7) "Owner or operator" means:

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

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

The term does not include:

(i) An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; or

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

~~((7))~~ (8) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

~~((8))~~ (9) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040. The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

~~((9))~~ (10) "Public notice" means, at a minimum, adequate notice mailed to all persons who have made timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

~~((10))~~ (11) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

~~((11))~~ (12) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

(13) "Industrial properties" means properties that are or have been characterized by, or are to be committed to, traditional industrial uses such as processing or manufacturing of materials, marine terminal and transportation areas and facilities, fabrication, assembly, treatment, or distribution of manufactured products, or storage of bulk materials, that are either:

(a) Zoned for industrial use by a city or county conducting land use planning under chapter 36.70A RCW; or

(b) For counties not planning under chapter 36.70A RCW and the cities within them, zoned for industrial use and adjacent to properties currently used or designated for industrial purposes.

**Sec. 3.** RCW 70.105D.030 and 1989 c 2 s 3 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~~((5))~~ (6) and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1); ~~((and))~~

(f) Issue orders or enter into consent decrees or agreed orders that include 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

(h) 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~~((, within nine months after March 1, 1989,))~~ shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) the establishment of regional citizen's advisory committees, (ii) public notice of the development of investigative plans or remedial plans for releases or threatened releases, and (iii) concurrent public notice of all compliance orders, enforcement orders, or notices of violation;

(b) Establish a hazard ranking system for hazardous waste sites;

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

(d) 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

(e) 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(~~((5))~~) (6) 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.040 and 1989 c 2 s 4 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, the following persons are liable with respect to a facility:

- (a) The owner or operator of the facility;
- (b) Any person who owned or operated the facility at the time of disposal or release of the hazardous substances;
- (c) Any person who owned or possessed a hazardous substance and who by contract, agreement, or otherwise arranged for disposal or treatment of the hazardous substance at the facility, or arranged with a transporter for transport for disposal or treatment of the hazardous substances at the facility, or otherwise generated hazardous wastes disposed of or treated at the facility;

(d) Any person (i) who accepts or accepted any hazardous substance for transport to a disposal, treatment, or other facility selected by such person from which there is a release or a threatened release for which remedial action is required, unless such facility, at the time of disposal or treatment, could legally

receive such substance; or (ii) who accepts a hazardous substance for transport to such a facility and has reasonable grounds to believe that such facility is not operated in accordance with chapter 70.105 RCW; and

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

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

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

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

(i) An act of God;

(ii) An act of war; or

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

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

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

(ii) The defense contained in this subsection (b) is not available to any person who had actual knowledge of the release or threatened release of a

hazardous substance when the person owned the real property and who subsequently transferred ownership of the property without first disclosing such knowledge to the transferee;

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

(c) Any natural person who uses a hazardous substance lawfully and without negligence for any personal or domestic purpose in or near a dwelling or accessory structure when that person is: (i) A resident of the dwelling; (ii) a person who, without compensation, assists the resident in the use of the substance; or (iii) a person who is employed by the resident, but who is not an independent contractor;

(d) Any person who, for the purpose of growing food crops, applies pesticides or fertilizers without negligence and in accordance with all applicable laws and regulations.

(4) There may be no settlement by the state with any person potentially liable under this chapter except in accordance with this ~~((subsection))~~ section.

(a) The attorney general may agree to a settlement with any potentially liable person only if the department finds, after public notice and hearing, that the proposed settlement would lead to a more expeditious cleanup of hazardous substances in compliance with cleanup standards under RCW 70.105D.030(2)(d) and with any remedial orders issued by the department. Whenever practicable and in the public interest, the attorney general may expedite such a settlement with persons whose contribution is insignificant in amount and toxicity.

(b) A settlement agreement under this ~~((subsection))~~ section shall be entered as a consent decree issued by a court of competent jurisdiction.

(c) A settlement agreement may contain a covenant not to sue only of a scope commensurate with the settlement agreement in favor of any person with whom the attorney general has settled under this section. Any covenant not to sue shall contain a reopener clause which requires the court to amend the covenant not to sue if factors not known at the time of entry of the settlement agreement are discovered and present a previously unknown threat to human health or the environment.

(d) A party who has resolved its liability to the state under this ~~((subsection))~~ section shall not be liable for claims for contribution regarding matters addressed in the settlement. The settlement does not discharge any of the other liable parties but it reduces the total potential liability of the others to the state by the amount of the settlement.

(5) In addition to the settlement authority provided under subsection (4) of this section, the attorney general may agree to a settlement with a person not currently liable for remedial action at a facility who proposes to purchase, redevelop, or reuse the facility, provided that:

(a) The settlement will provide a substantial public benefit, including but not limited to the reuse of a vacant or abandoned manufacturing or industrial facility,

or the development of a facility by a governmental entity to address an important public purpose;

(b) The settlement will yield substantial new resources to facilitate cleanup;

(c) The settlement will expedite remedial action consistent with the rules adopted under this chapter; and

(d) Based on available information, the department determines that the redevelopment or reuse of the facility is not likely to contribute to the existing release or threatened release, interfere with remedial actions that may be needed at the site, or increase health risks to persons at or in the vicinity of the site.

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

NEW SECTION. Sec. 5. A new section is added to chapter 70.105 RCW to read as follows:

Solid wastes that designate as dangerous waste or extremely hazardous waste but do not designate as hazardous waste under federal law are conditionally exempt from the requirements of this chapter, if:

(1) The waste is generated pursuant to a consent decree issued under chapter 70.105D RCW;

(2) The consent decree characterizes the solid waste and specifies management practices and a department-approved treatment or disposal location;

(3) The management practices are consistent with RCW 70.105.150 and are protective of human health and the environment as determined by the department of ecology; and

(4) Waste treated or disposed of on-site will be managed in a manner determined by the department to be as protective of human health and the environment as clean-up standards pursuant to chapter 70.105D RCW.

This section shall not be interpreted to limit the ability of the department to apply any requirement of this chapter through a consent decree issued under chapter 70.105D RCW, if the department determines these requirements to be appropriate. Neither shall this section be interpreted to limit the application of this chapter to a cleanup conducted under the federal comprehensive environmental response, compensation, and liability act (42 U.S.C. Sec. 9601 et seq., as amended).

Sec. 6. RCW 70.105.050 and 1987 c 488 s 4 are each amended to read as follows:

(1) No person shall dispose of designated extremely hazardous wastes at any disposal site in the state other than the disposal site established and approved for such purpose under provisions of this chapter, except:



(a) When such wastes are going to a processing facility which will result in the waste being reclaimed, treated, detoxified, neutralized, or otherwise processed to remove its harmful properties or characteristics((-)); or

(b) When such wastes are managed on-site as part of a remedial action conducted by the department or by potentially liable persons under a consent decree issued by the department pursuant to chapter 70.105D RCW.

(2) Extremely hazardous wastes that contain radioactive components may be disposed at a radioactive waste disposal site that is (a) owned by the United States department of energy or a licensee of the nuclear regulatory commission and (b) permitted by the department and operated in compliance with the provisions of this chapter. However, prior to disposal, or as a part of disposal, all reasonable methods of treatment, detoxification, neutralization, or other waste management methodologies designed to mitigate hazards associated with these wastes shall be employed, as required by applicable federal and state laws and regulations.

NEW SECTION. Sec. 7. A new section is added to chapter 70.105 RCW to read as follows:

Nothing in this chapter shall alter or affect the regulatory authority of a county, city, or jurisdictional health district to condition or prohibit the acceptance of hazardous waste in a county or city landfill.

Passed the Senate March 6, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 255

[Engrossed Substitute Senate Bill 6125]

### HUNTING AND FISHING—COMBINED LICENSES—REVISIONS

AN ACT Relating to the creation of a combined recreational fish and hunting license document; amending RCW 75.25.091, 75.25.092, 75.25.110, 75.25.120, 75.25.150, 77.32.161, 77.32.101, 77.32.230, and 77.32.256; reenacting and amending RCW 75.08.011 and 75.25.180; adding a new section to chapter 77.32 RCW; adding a new section to chapter 75.25 RCW; adding a new chapter to Title 77 RCW; creating a new section; and providing effective dates.

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

NEW SECTION. Sec. 1. A new section is added to chapter 77.32 RCW to read as follows:

The legislature finds that it is in the best interest of recreational hunters and fishers in the state of Washington to be able to purchase all recreational hunting and fishing licenses as a single document. Under the combined department of fish and wildlife, there is the opportunity to establish uniform license requirements and procedures.

There is created a sport recreational license, to be administered by the department of fish and wildlife. The sport recreational license shall include the

personal use food fish, game fish, hunting, hound, and eastern Washington upland bird licenses, for residents and nonresidents. The license shall also include three-day game fish and food fish licenses, for residents and nonresidents. The license shall include a warm water game fish surcharge, the funds from which shall be deposited in the warm water game fish account created under section 18 of this act.

**Sec. 2.** RCW 75.08.011 and 1993 sp.s. c 2 s 20 and 1993 c 340 s 47 are each reenacted and amended to read as follows:

As used in this title or rules of the director, 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) "Person" means an individual or a public or private entity or organization. The term "person" includes local, state, and federal government agencies, and all business organizations, including corporations and partnerships.

(4) "Fisheries patrol officer" means a person appointed and commissioned by the director, with authority to enforce this title, rules of the director, and other statutes as prescribed by the legislature. Fisheries patrol officers are peace officers.

(5) "Ex officio fisheries patrol 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 fisheries patrol officer" also includes wildlife agents, special agents of the national marine fisheries service, United States fish and wildlife special agents, state parks commissioned officers, department of natural resources enforcement officers, and United States forest service officers, while the agents and officers are within their respective jurisdictions.

(6) "To fish," "to harvest," and "to take" and their derivatives mean an effort to kill, injure, harass, or catch food fish or shellfish.

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

(8) "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.

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

(10) "Resident" means a person who has ~~((for the preceding ninety days))~~ 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.

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

(12) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that have been classified and that shall not be fished for except as authorized by rule of the director. The term "food fish" includes all stages of development and the bodily parts of food fish species.

(13) "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 director. The term "shellfish" includes all stages of development and the bodily parts of shellfish species.

(14) "Salmon" means all species of the genus *Oncorhynchus*, except those classified as game fish in Title 77 RCW, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

(15) "Commercial" means related to or connected with buying, selling, or bartering. Fishing for food fish or shellfish with gear unlawful for fishing for personal use, or possessing food fish or shellfish in excess of the limits permitted for personal use are commercial activities.

(16) "To process" and its derivatives mean preparing or preserving food fish or shellfish.

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

(18) "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 (~~(to which are attached no more than two single hooks or one artificial bait with no more than four multiple hooks)~~).

(19) "Open season" means those times, manners of taking, and places or waters established by rule of the director for the lawful fishing, taking, or possession of food fish or shellfish. "Open season" includes the first and last days of the established time.

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

(21) "Limited-entry license" means a license subject to a license limitation program established in chapter 75.30 RCW.

(22) "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.

**Sec. 3.** RCW 75.25.091 and 1993 sp.s. c 17 s 2 are each amended to read as follows:

(1) A personal use food fish license is required for all persons other than residents under fifteen years of age (~~((, honorably discharged veterans with service-connected disabilities of thirty percent or more who have resided in the state for one year or more, or residents seventy years of age or older))~~) to fish for, take, or possess food fish for personal use from state waters or offshore waters. A personal use food fish license is not required under this section to fish for, take, or possess carp, smelt, or albacore.

(2) The fees for annual personal use food fish licenses include the one dollar regional fisheries enhancement surcharge imposed in RCW 75.50.100 and are as follows:

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

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

(c) For a nonresident, ~~((nineteen))~~ twenty dollars.

(3) The fee for a ~~((two consecutive day))~~ three-consecutive-day personal use food fish license is ~~((four))~~ five dollars, and includes the one-dollar regional fishery enhancement group surcharge imposed in RCW 75.50.100.

(4) An annual personal use food fish license is valid for a maximum catch of fifteen salmon, after which another annual personal use food fish license may be purchased.

(5) An annual personal use food fish license is valid for an annual maximum catch of fifteen sturgeon. No person may take more than fifteen sturgeon in any calendar year.

**Sec. 4.** RCW 75.25.092 and 1993 sp.s. c 17 s 3 are each amended to read as follows:

(1) A personal use shellfish and seaweed license is required for all persons other than residents under fifteen years of age (~~((or honorably discharged veterans with service-connected disabilities of thirty percent or more who have resided in the state for one year or more))~~) to fish for, take, dig for, or possess seaweed or shellfish except crawfish (*Pacifastacus sp.*) for personal use from state waters or offshore waters including national park beaches.

(2) The fees for annual personal use shellfish and seaweed licenses are:

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

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

(c) For a nonresident, twenty dollars.

(3) The fee for a ~~((two consecutive day))~~ three-consecutive-day personal use shellfish and seaweed license is five dollars.

**Sec. 5.** RCW 75.25.110 and 1993 sp.s. c 17 s 6 are each amended to read as follows:

(1) Any of the recreational fishing licenses required by this chapter shall, upon ~~((request))~~ written application, be issued without charge to the following individuals ~~((upon request))~~:

(a) ~~((Residents under fifteen years of age;~~  
~~(b))~~ Residents who ~~((submit applications attesting that they))~~ are ~~((a person sixty-five years of age or older who is an))~~ honorably discharged veterans of the United States armed forces and who are sixty-five years of age or older with a service-connected disability ~~((and who has been a resident of this state for the preceding ninety days));~~

(b) Residents who are honorably discharged veterans of the United States armed forces with a thirty percent or more service-connected disability;

(c) A ~~((blind))~~ person who is blind;

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

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

(2) A ~~((blind))~~ person who is blind or a physically handicapped person confined to a wheelchair who has been issued a card for a permanent disability under RCW 46.16.381 may use that card in place of a fishing license.

(3) Licenses issued at no charge under this section shall be issued from Olympia as provided by rule of the director.

Sec. 6. RCW 75.25.120 and 1993 sp.s. c 17 s 7 are each amended to read as follows:

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

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

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

Sec. 7. RCW 75.25.150 and 1993 sp.s. c 17 s 9 are each amended to read as follows:

It is unlawful to dig for, fish for, harvest, or possess shellfish ~~((or))~~ food fish, or seaweed without the licenses required by this chapter.

Sec. 8. RCW 75.25.180 and 1993 sp.s. c 17 s 10 and 1993 sp.s. c 2 s 44 are each reenacted and amended to read as follows:

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

(1) Recreational licenses issued without charge to persons designated by this chapter are valid for a period of five years(~~(+~~

~~(a) For blind persons;~~

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

~~(c) For persons with a developmental disability; and~~

~~(d) For handicapped persons confined to a wheelchair who have been issued a permanent disability card).~~

(2) ~~((Two consecutive day))~~ Three-consecutive-day personal use food fish and shellfish and seaweed licenses expire at midnight on the second day following the validation date written on the license by the license dealer, except ~~((two consecutive day))~~ three-consecutive-day personal use food fish and shellfish and seaweed licenses validated for December 30 or 31 expire at midnight on ~~((that date))~~ December 31.

(3) ~~((A personal use food fish license is valid for a maximum catch of fifteen salmon, after which another personal use food fish license may be purchased. A))~~ An annual personal use food fish license or annual personal use shellfish and seaweed license is valid only for the calendar year for which it is issued.

~~((4) A personal use food fish license is valid for an annual maximum catch of fifteen sturgeon.~~

~~(5) Personal use shellfish licenses are valid for the calendar year for which they are issued.))~~

NEW SECTION. **Sec. 9.** A new section is added to chapter 75.25 RCW to read as follows:

The director shall by rule establish the conditions for issuance of duplicate licenses, permits, tags, stamps, and catch record cards required by this chapter. The fee for a duplicate provided under this section is ten dollars for those licenses that are ten dollars and over, and for those licenses under ten dollars the duplicate fee is the value of the license.

**Sec. 10.** RCW 77.32.161 and 1991 sp.s. c 7 s 2 are each amended to read as follows:

A nonresident or resident may obtain a temporary fishing license, which allows the holder to fish for game fish throughout the state for either three ~~((consecutive))~~ days or for one day. The fee for ~~((this))~~ a three-day license is nine dollars for residents and seventeen dollars for nonresidents. The fee for a one-day license is three dollars for residents and seven dollars for nonresidents. The resident temporary fishing license is not valid for an eight consecutive day period beginning on the opening day of the lowland lake fishing season.

**Sec. 11.** RCW 77.32.101 and 1991 sp.s. c 7 s 1 are each amended to read as follows:

(1) A combination hunting and fishing license allows a resident holder to hunt, and to fish for game fish throughout the state. The fee for this license is twenty-nine dollars.

(2) A hunting license allows the holder to hunt throughout the state. The fee for this license is fifteen dollars for residents and one hundred fifty dollars for nonresidents.

(3) A fishing license allows the holder to fish for game fish throughout the state. The fee for this license is seventeen dollars for residents fifteen years of age or older and under seventy years of age, three dollars for residents seventy years of age or older, twenty dollars for nonresidents under fifteen years of age, and forty-eight dollars for nonresidents fifteen years of age or older.

(4) A steelhead fishing license allows the holder of a combination hunting and fishing license or a fishing license issued under this section to fish for steelhead throughout the state. The fee for this license is eighteen dollars.

(5) A juvenile steelhead license allows residents under fifteen years of age and nonresidents under fifteen years of age who hold a fishing license to fish for steelhead throughout the state. The fee for this license is six dollars and entitles the holder to take up to five steelhead at which time another juvenile steelhead license may be purchased. Any person who purchases a juvenile steelhead license is prohibited from purchasing a steelhead license for the same calendar year.

**Sec. 12.** RCW 77.32.230 and 1991 sp.s. c 7 s 5 are each amended to read as follows:

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

(2) Residents who are honorably discharged veterans of the United States armed forces with a thirty percent or more service-connected disability may receive upon written application a hunting and fishing license free of charge.

(3) An honorably discharged veteran who is a resident and is confined to a wheelchair shall receive upon application a hunting license free of charge.

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

~~((3))~~ (5) A ~~((blind))~~ person who is blind or a physically handicapped person confined to a wheelchair who has been issued a card for a permanent disability under RCW 46.16.381 may use that card in place of a fishing license ~~((unless tags, permits, stamps, or punchcards are required by this chapter)).~~

~~((4))~~ (6) A fishing license is not required for ~~((persons))~~ residents under the age of fifteen.

~~((5))~~ (7) Tags, permits, stamps, and ~~((punchcards))~~ steelhead licenses required by this chapter shall be purchased separately by persons receiving a free or reduced-fee license.

(8) Licenses issued at no charge under this section shall be issued from Olympia as provided by rule of the director, and are valid for five years.

**Sec. 13.** RCW 77.32.256 and 1991 sp.s. c 7 s 7 are each amended to read as follows:

The director shall by rule establish the conditions for issuance of duplicate licenses, rebates, permits, tags, stamps, and ~~((punchcards))~~ catch record cards required by this chapter. The fee for a duplicate provided under this section is ten dollars for those licenses that are ten dollars and over, and for those licenses under ten dollars the duplicate fee is the value of the license.

NEW SECTION. **Sec. 14.** All licenses issued by the department of fisheries under Title 75 RCW or issued by the department of wildlife under Title 77 RCW shall be recognized as valid by the department of fish and wildlife until the stated expiration date.

***\*NEW SECTION. Sec. 15. A warm water game fish enhancement program is created in the department to be funded from the sale of a warm water game fish surcharge and the revenue attributed to the sale of department fishing licenses that are purchased by fishers who fish for certain warm water game fish species. The enhancement program shall be designed to increase the opportunities to fish for and catch warm water game fish including: Largemouth black bass, smallmouth black bass, channel catfish, black crappie, white crappie, walleye, and tiger musky, and other species as defined by the department. The program shall be designed to use a practical applied approach to increasing warm water fishing. The department shall use the funds available efficiently to assure the greatest increase in the fishing for warm water fish at the lowest cost. This approach shall involve the minimization of overhead and administrative costs and the maximization of productive in-the-field activities.***

\*Sec. 15 was vetoed, see message at end of chapter.

***\*NEW SECTION. Sec. 16. In order to fish throughout the state for warm water game fish, a person fifteen years of age or older shall pay to the department an annual warm water game fish surcharge. For the purposes of this section, "warm water game fish" means largemouth black bass, smallmouth black bass, walleye, black crappie, white crappie, channel catfish, and tiger musky. The department shall use the most cost-effective format in designing and administering the surcharge. Revenues from the surcharge shall be deposited in the warm water game fish account created under section 18 of this act. The annual surcharge shall be in the following amounts:***



(1) For residents and nonresidents between fifteen and sixty-nine years of age and for nonresidents seventy years of age or older who hold an annual fishing license issued under RCW 77.32.101, five dollars;

(2) For residents seventy years of age or older who hold an annual fishing license issued under RCW 77.32.101, one dollar; and

(3) For residents and nonresidents between fifteen and sixty-nine years of age and nonresidents seventy years of age and older who hold a temporary fishing license under RCW 77.32.161, two dollars.

\*Sec. 16 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 17. The goals of the warm water game fish enhancement program are to improve the fishing for warm water game fish using cost-effective management. Development of new ponds and lakes shall be an important and integral part of the program. The department shall work with the department of natural resources to coordinate the reclamation of surface mines and the development of warm water game fish ponds. Improvement of warm water fishing shall be coordinated with the protection and conservation of cold water fish populations. This shall be accomplished by carefully designing the warm water projects to have minimal adverse effects upon the cold water fish populations. New pond and lake development should have beneficial effects upon wildlife due to the increase in lacustrine and wetland habitat that will accompany the improvement of warm water fish habitat. The department shall not develop projects that will increase the populations of undesirable or deleterious fish species such as carp, squawfish, walking catfish, and others.

Fish culture programs shall be used in conditions where they will prove to be cost-effective. Consideration should be made for development of urban area enhancement of fishing opportunity for put-and-take species, such as channel catfish, which are amenable to production by low-cost fish culture methods. Fish culture shall also be used for stocking of high value species, such as walleye, smallmouth bass, and tiger musky. Introduction of special genetic strains that show high potential for recreational fishing improvement, including Florida strain largemouth bass, shall be considered.

Transplantation and introduction of exotic warm water fish shall be carefully reviewed to assure that adverse effects to native fish and wildlife populations do not occur. This review shall include an analysis of consequences from disease and parasite introduction.

Population management through the use of fish toxicants, including rotenone or derris root, shall be considered as a management option in the warm water game fish enhancement program. However, any use of fish toxicants shall be subject to a thorough review to prevent adverse effects to cold water fish, desirable warm water fish, and other biota. Eradication of deleterious fish species shall be a goal of the program.

*Habitat improvement shall be a major aspect of the warm water enhancement program. Habitat improvement opportunities shall be defined with scientific investigations, field surveys, and by using the extensive experience of other state management entities. Installation of cover, structure, water flow control structures, screens, spawning substrate, vegetation control, and other management techniques shall be fully used. The department shall work to gain access to privately owned waters that can be developed with habitat improvements to improve the warm water resource for public fishing. Habitat improvements shall be conducted in such a manner as to have secondary benefits to waterfowl, other wildlife, and cold water fish.*

*The program may include research if necessary to achieve overall program goals.*

*The department shall use the resources of cooperative groups to assist in the planning and implementation of the warm water game fish enhancement program. In the development of the program the department shall actively involve the organized fishing clubs that primarily fish for warm water fish.*

\*Sec. 17 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 18. The warm water game fish account is hereby created in the state wildlife fund. Moneys in the account are subject to legislative appropriation and shall be used for the purpose of funding the warm water game fish enhancement program under section 15 of this act. Revenues from the warm water game fish surcharge established under section 16 of this act shall be deposited into the account.*

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

**NEW SECTION.** *Sec. 19. The director shall make every effort to allocate funding among department fish management programs proportional to the revenues from the sale of fishing licenses issued under RCW 77.32.101 and attributable to fishing for the species managed within each of the programs.*

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

**NEW SECTION.** *Sec. 20. Sections 15 through 19 of this act shall constitute a new chapter in Title 77 RCW.*

\*Sec. 20 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 21. (1) Sections 15 and 17 through 19 of this act shall take effect July 1, 1994.*

*(2) Section 16 of this act shall take effect January 1, 1995.*

\*Sec. 21 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 22. Section 14 of this act shall take effect July 1, 1994.*

**NEW SECTION.** *Sec. 23. Sections 1 through 13 of this act shall take effect January 1, 1995.*

Passed the Senate March 5, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to sections 15, 16, 17, 18, 19, 20, and 21, Engrossed Substitute Senate Bill No. 6125 entitled:

"AN ACT Relating to the creation of a combined recreational fish and hunting license document;"

Engrossed Substitute Senate Bill No. 6125 creates a sports recreational license that combines recreational fishing and hunting licenses and consolidates license categories into one document. These changes will provide more efficient service and will be less confusing to the public.

However, sections 15, 16, 17, 18, 19, 20, and 21 of Engrossed Substitute Senate Bill No. 6125 would direct the Department of Fish and Wildlife to create an expanded warm-water fisheries enhancement program financed by a new \$5.00 (five dollar) fee to be imposed on those who fish for most species of warm-water fish.

In a time of fiscal constraint, I do not think it is wise to increase the cost of fishing licenses. Beyond that, in a time of problems emerging from endangered-species findings, from declining cold-water fisheries, from habitat loss, and from a host of other difficulties afflicting our fish and wildlife, I do not believe it is wise to earmark another fee to support only one program in the Department of Fish and Wildlife. The newly merged department already has a great number of special, earmarked funding mechanisms. Until there is a general review of the new department's programs and funding needs, I hesitate to establish yet another fund, and with it a new fisheries program. For these reasons, I am vetoing sections 15, 16, 17, 18, 19, 20, and 21.

With the exception of sections 15, 16, 17, 18, 19, 20, and 21, Engrossed Substitute Senate Bill No. 6125 is approved."

## CHAPTER 256

[Senate Bill 6285]

### FINANCIAL INSTITUTIONS AND SECURITIES—REGULATORY REFORM

AN ACT Relating to the strengthening and reform of the regulation of financial institutions and securities; amending RCW 21.20.035, 21.20.040, 21.20.050, 21.20.060, 21.20.080, 21.20.090, 21.20.110, 21.20.120, 21.20.130, 21.20.180, 21.20.190, 21.20.200, 21.20.210, 21.20.275, 21.20.310, 21.20.330, 21.20.340, 21.20.370, 21.20.380, 21.20.390, 21.20.450, 21.20.510, 21.20.702, 23B.02.020, 23B.07.010, 23B.08.030, 23B.08.050, 30.04.020, 30.04.125, 30.04.130, 30.04.180, 30.04.210, 30.04.215, 30.04.555, 30.04.565, 30.04.575, 30.08.010, 30.08.020, 30.08.040, 30.08.082, 30.08.087, 30.08.088, 30.08.090, 30.08.092, 30.08.095, 30.08.180, 30.08.190, 30.12.010, 30.12.020, 30.49.090, 31.12.005, 31.12.015, 31.12.025, 31.12.055, 31.12.065, 31.12.115, 31.12.125, 31.12.136, 31.12.155, 31.12.195, 31.12.235, 31.12.255, 31.12.265, 31.12.315, 31.12.335, 31.12.385, 31.12.406, 31.12.415, 31.12.425, 31.12.435, 31.12.526, 31.12.555, 31.12.565, 31.12.695, 32.04.030, 32.04.060, 32.04.080, 32.04.085, 32.08.010, 32.08.142, 32.12.050, 32.12.090, 32.16.020, 32.16.070, 32.16.100, 32.32.025, 32.32.290, 32.32.480, 32.32.485, 32.32.490, 32.32.495, 32.32.500, 32.32.505, 32.32.515, 32.34.030, 32.34.060, 33.08.030, 33.08.100, 33.12.012, 33.12.014, 33.12.060, 33.16.030, and 33.16.090; reenacting and amending RCW 21.20.005; adding a new section to chapter 15.66 RCW; adding a new section to chapter 23B.05 RCW; adding new sections to chapter 30.08 RCW; adding a new section to chapter 30.20 RCW; adding a new section to chapter 30.43 RCW; adding a new section to chapter 31.12 RCW; adding a new section to chapter 32.08 RCW; adding a new section to chapter 32.32 RCW; adding a new chapter to Title 30 RCW; creating a new section; recodifying RCW 30.04.370 and 30.04.085; and repealing RCW 30.04.235, 30.04.250, 30.04.270, 30.04.290, 30.04.900,

30.08.110, 30.08.120, 30.12.050, 30.43.010, 30.43.020, 30.43.030, 30.43.040, 30.43.045, 30.43.050, 31.12.095, 31.12.175, 31.12.355, 32.04.040, 32.12.060, 32.20.290, 32.32.510, and 33.12.020.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that the financial services industry is experiencing a period of rapid change with the development and delivery of new products and services and advances in technology.

(2) The legislature further finds it in the public interest to strengthen the regulation, supervision, and examination of business entities furnishing financial services to the people of this state and that this can be accomplished by streamlining and focusing regulation to reduce costs, increase effectiveness, and foster efficiency by eliminating requirements that are not necessary for the protection of the public.

(3) The provisions of this act should not be construed to limit the ability of the director of financial institutions to implement prudent regulation, prevent unsafe, unsound, and fraudulent practices, and undertake necessary enforcement actions to protect the public and promote the public interest.

**NEW SECTION.** Sec. 2. RCW 30.04.370 is recodified as a section in chapter 15.66 RCW.

**Sec. 3.** RCW 21.20.005 and 1993 c 472 s 14 and 1993 c 470 s 4 are each reenacted and amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of financial institutions of this state.

(2) "Salesperson" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesperson" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310(1), (2), (3), (4), (9), (10), (11), (12), or (13), (b) effecting transactions exempted by RCW 21.20.320 unless otherwise expressly required by the terms of the exemption, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include (a) a salesperson, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if the person effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months that person does

not direct more than fifteen offers to sell or to buy into or make more than five sales in this state in any manner to persons other than those specified in subsection (b) above.

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(5) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" also includes financial planners and other persons who, as an integral component of other financially related services, (a) provide the foregoing investment advisory services to others for compensation as part of a business or (b) hold themselves out as providing the foregoing investment advisory services to others for compensation. Investment adviser shall also include any person who holds himself out as a financial planner.

"Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, certified public accountant licensed under chapter 18.04 RCW, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer, (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (e) a radio or television station, (f) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (g) a person who has no place of business in this state if (i) that person's only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months that person does not direct business communications into this state in any manner to more than five clients other than those specified in clause (i) above, or (h) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and

assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; investment of money or other consideration in the risk capital of a venture with the expectation of some valuable benefit to the investor where the investor does not receive the right to exercise practical and actual control over the managerial decisions of the venture; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; charitable gift annuity; any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof; or any put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency; or, in general, any interest or instrument commonly known as a "security," or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or

its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser (~~salesperson~~) representative" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients.

(15) "Relatives," as used in RCW 21.20.310(11) includes:

- (a) A member's spouse;
- (b) Parents of the member or the member's spouse;
- (c) Grandparents of the member or the member's spouse;
- (d) Natural or adopted children of the member or the member's spouse;
- (e) Aunts and uncles of the member or the member's spouse; and
- (f) First cousins of the member or the member's spouse.

(16) "Customer" means a person other than a broker-dealer or investment adviser.

**Sec. 4.** RCW 21.20.035 and 1993 c 470 s 1 are each amended to read as follows:

It is unlawful for a broker-dealer, salesperson, investment adviser, or investment adviser (~~salesperson~~) representative knowingly to effect or cause to be effected, with or for a customer's account, transactions of purchase or sale (1) that are excessive in size or frequency in view of the financial resources and character of the account and (2) that are effected because the broker-dealer, salesperson, investment adviser, or investment adviser (~~salesperson~~) representative is vested with discretionary power or is able by reason of the customer's trust and confidence to influence the volume and frequency of the trades.

**Sec. 5.** RCW 21.20.040 and 1989 c 391 s 2 are each amended to read as follows:

(1) It is unlawful for any person to transact business in this state as a broker-dealer or salesperson, unless he or she is registered under this chapter: PROVIDED, That an exemption from registration as a broker-dealer or salesperson to sell or resell condominium units sold in conjunction with an investment contract, may be provided by rule or regulation of the director as to persons who are licensed pursuant to the provisions of chapter 18.85 RCW. It is unlawful for any broker-dealer or issuer to employ a salesperson unless the salesperson is registered or exempted from registration. It is unlawful for any person to transact business in this state as an investment adviser unless (a) the person is so registered under this chapter, or (b) the person is registered as a broker-dealer under this chapter, or (c) the person's only clients in this state are investment companies as defined in the Investment Company Act of 1940, or insurance companies. It is unlawful for any person to transact business in this

state as an investment adviser (~~(salesperson)~~) representative or for any investment adviser to employ an investment adviser (~~(salesperson)~~) representative unless such person is registered.

(2) It is unlawful for any person to hold himself or herself out as, or otherwise represent that he or she is a "financial planner", "investment counselor", or other similar term, as may be specified in rules adopted by the director, unless the person is registered as an investment adviser or investment adviser (~~(salesperson)~~) representative, is exempt from registration under RCW 21.20.040(1), or is excluded from the definition of investment adviser under RCW 21.20.005(6).

**Sec. 6.** RCW 21.20.050 and 1981 c 272 s 1 are each amended to read as follows:

A broker-dealer, salesperson, investment adviser, or investment adviser (~~(salesperson)~~) representative may apply for registration by filing with the director or his authorized agent an application together with a consent to service of process in such form as the director shall prescribe and payment of the fee prescribed in RCW 21.20.340.

**Sec. 7.** RCW 21.20.060 and 1965 c 17 s 1 are each amended to read as follows:

The application shall contain whatever information the director requires concerning such matters as:

- (1) The applicant's form and place of organization;
- (2) The applicant's proposed method of doing business;
- (3) The qualifications and business history of the applicant and in the case of a broker-dealer or investment adviser, any partner, officer, or director;
- (4) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and
- (5) The applicant's financial condition and history.

The director of licenses or the duly appointed administrator may by rule require a minimum capital for registered broker-dealers and investment advisers or prescribe a ratio between net capital and aggregate indebtedness by type or classification and may by rule allow registrants to maintain a surety bond of appropriate amount as an alternative method of compliance with minimum capital or net capital requirements.

**Sec. 8.** RCW 21.20.080 and 1981 c 272 s 3 are each amended to read as follows:

Registration of a broker-dealer, salesperson, investment adviser (~~(salesperson)~~) representative, or investment adviser shall be effective for a one-year period unless the director by rule or order provides otherwise. The director by rule or order may schedule registration or renewal so that all registrations and renewals expire December 31st. The director may adjust the fee for registration



or renewal proportionately. The registration of a salesperson or investment adviser (~~((salesperson))~~ representative) is not effective during any period when the salesperson is not associated with an issuer or a registered broker-dealer or when the investment adviser (~~((salesperson))~~ representative) is not associated with a registered investment adviser. To be associated with an issuer, broker-dealer, or investment adviser within the meaning of this section written notice must be given to the director. When a salesperson begins or terminates an association with an issuer or registered broker-dealer, the salesperson and the issuer or broker-dealer shall promptly notify the director. When an investment adviser (~~((salesperson))~~ representative) begins or terminates an association with a registered investment adviser, the investment adviser (~~((salesperson))~~ representative) and registered investment adviser shall promptly notify the director.

Notwithstanding any provision of law to the contrary, the director may, from time to time, extend the duration of a licensing period for the purpose of staggering renewal periods. Such extension of a licensing period shall be by rule or regulation adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period.

**Sec. 9.** RCW 21.20.090 and 1981 c 272 s 4 are each amended to read as follows:

Registration of a broker-dealer, salesperson, investment adviser (~~((salesperson))~~ representative), or investment adviser may be renewed by filing with the director or his authorized agent prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesperson, investment adviser (~~((salesperson))~~ representative), or investment adviser filed with the director or his authorized agent by the applicant, payment of the prescribed fee, and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety days. A registered broker-dealer or investment adviser may file an application for registration of a successor, and the administrator may at his or her discretion grant or deny the application.

**Sec. 10.** RCW 21.20.110 and 1993 c 470 s 3 are each amended to read as follows:

The director may by order deny, suspend, or revoke registration of any broker-dealer, salesperson, investment adviser (~~((salesperson))~~ representative), or investment adviser; censure or fine the registrant or an officer, director, partner, or person occupying similar functions for a registrant; or restrict or limit a registrant's function or activity of business for which registration is required in this state; if the director finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

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

(2) Has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act, or any provision of chapter 21.30 RCW or any rule or order thereunder;

(3) Has been convicted, within the past five years, of any misdemeanor involving a security, or a commodity contract or commodity option as defined in RCW 21.30.010, or any aspect of the securities or investment commodities business, or any felony involving moral turpitude;

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

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

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesperson, or a commodity broker-dealer or sales representative, or the substantial equivalent of those terms as defined in this chapter or by the commodity futures trading commission denying or revoking registration as a commodity merchant as defined in RCW 21.30.010, or is the subject of an order of suspension or expulsion from membership in or association with a self-regulatory organization registered under the securities exchange act of 1934 or the federal commodity exchange act, or is the subject of a United States post office fraud order; but (a) the director may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and (b) the director may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

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

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

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

(10)(a) Has failed to supervise reasonably a salesperson or an investment adviser (~~(salesperson)~~) representative. For the purposes of this subsection, no person fails to supervise reasonably another person, if:

(i) There are established procedures, and a system for applying those procedures, that would reasonably be expected to prevent and detect, insofar as practicable, any violation by another person of this chapter, or a rule or order under this chapter; and

(ii) The supervising person has reasonably discharged the duties and obligations required by these procedures and system without reasonable cause to believe that another person was violating this chapter or rules or orders under this chapter.

(b) The director may issue a summary order pending final determination of a proceeding under this section upon a finding that it is in the public interest and necessary or appropriate for the protection of investors. The director may not impose a fine under this section except after notice and opportunity for hearing. The fine imposed under this section may not exceed five thousand dollars for each act or omission that constitutes the basis for issuing the order.

**Sec. 11.** RCW 21.20.120 and 1979 ex.s. c 68 s 8 are each amended to read as follows:

Upon the entry of an order under RCW 21.20.110, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesperson or investment adviser (~~(salesperson)~~) representative, that it has been entered and of the reasons therefor and that if requested by the applicant or registrant within fifteen days after the receipt of the director's notification the matter will be promptly set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. No order may be entered under RCW 21.20.110 denying or revoking registration without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is a salesperson or an investment adviser (~~(salesperson)~~) representative), opportunity for hearing, and written findings of fact and conclusions of law.

**Sec. 12.** RCW 21.20.130 and 1979 ex.s. c 68 s 9 are each amended to read as follows:

If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, investment adviser (~~(salesperson)~~) representative, or salesperson, or is subject to an adjudication of mental incompetence or to the control of a

committee, conservator, or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application.

**Sec. 13.** RCW 21.20.180 and 1979 ex.s. c 68 s 11 are each amended to read as follows:

Any security for which a registration statement has been filed under the securities act of 1933 or any securities for which filings have been made pursuant to ~~((rules and))~~ regulation~~((s))~~ A ~~((and A-M))~~ pursuant to subsection (b) of Sec. 3 of ~~((said))~~ the securities act in connection with the same offering may be registered by coordination. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in RCW 21.20.340 and, if required under RCW 21.20.330, a consent to service of process meeting the requirements of that section:

- (1) One copy of the prospectus, offering circular and/or letters of notification, filed under the securities act of 1933 together with all amendments thereto;
- (2) The amount of securities to be offered in this state;
- (3) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;
- (4) Any adverse order, judgment or decree previously entered in connection with the offering by any court or the securities and exchange commission;
- (5) If the director, by rule or otherwise, requires a copy of the articles of incorporation and bylaws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;
- (6) If the director requests, any other information, or copies of any other documents, filed under the securities act of 1933;
- (7) An undertaking to forward promptly all amendments to the federal registration statement, offering circular and/or letters of notification, other than an amendment which merely delays the effective date; and
- (8) If the aggregate sales price of the offering exceeds ~~((five hundred thousand))~~ one million dollars, audited financial statements and other financial information prepared as to form and content under rules adopted by the director.

**Sec. 14.** RCW 21.20.190 and 1961 c 37 s 5 are each amended to read as follows:

A registration statement by coordination under RCW 21.20.180 automatically becomes effective at the moment the federal registration statement or other filing becomes effective if all the following conditions are satisfied:

- (1) No stop order is in effect and no proceeding is pending under RCW 21.20.280 and 21.20.300;
- (2) The registration statement has been on file with the director for at least ten full business days; and

(3) A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the director permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the director (~~(by telephone)~~) or such person as the director may by rule or order designate by facsimile, electronic transmission, or telegram of the date and time when the federal registration statement or other filing became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

**Sec. 15.** RCW 21.20.200 and 1979 ex.s. c 68 s 12 are each amended to read as follows:

Upon failure to receive the required notification and post-effective amendment with respect to the price amendment referred to in RCW 21.20.190, the director may enter a stop order, without notice of hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with RCW 21.20.190, if the director promptly notified the registrant by telephone (~~(or telegram)~~), facsimile, or electronic transmission (and promptly confirms by letter or (~~(telegram)~~) facsimile when the director notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements as to notice and post-effective amendment, the stop order is void as of the time of its entry. The director may by rule or otherwise waive either or both of the conditions specified in RCW 21.20.190(2) and (3). If the federal registration statement or other filing becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the director of the date when the federal registration statement or other filing is expected to become effective the director shall promptly advise the registrant by telephone (~~(or telegram)~~), electronic transmission, or facsimile, at the registrant's expense, whether all the conditions are satisfied and whether the director then contemplates the institution of a proceeding under RCW 21.20.280 and 21.20.300; but this advice by the director does not preclude the institution of such a proceeding at any time.

**Sec. 16.** RCW 21.20.210 and 1979 ex.s. c 68 s 13 are each amended to read as follows:

Any security may be registered by qualification. A registration statement under this section shall contain the following information and be accompanied by the following documents, in addition to payment of the registration fee prescribed in RCW 21.20.340, and, if required under RCW 21.20.330, a consent to service of process meeting the requirements of that section:

(1) With respect to the issuer and any significant subsidiary: Its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; and a description of its physical properties and equipment.

(2) With respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: His or her name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him or her as of a specified date within ninety days of the filing of the registration statement; the remuneration paid to all such persons in the aggregate during the past twelve months, and estimated to be paid during the next twelve months, directly or indirectly, by the issuer (together with all predecessors, parents and subsidiaries).

(3) With respect to any person not named in RCW 21.20.210(2), owning of record, or beneficially if known, ten percent or more of the outstanding shares of any class of equity security of the issuer: The information specified in RCW 21.20.210(2) other than his or her occupation.

(4) With respect to every promoter, not named in RCW 21.20.210(2), if the issuer was organized within the past three years: The information specified in RCW 21.20.210(2), any amount paid to that person by the issuer within that period or intended to be paid to that person, and the consideration for any such payment.

(5) The capitalization and long-term debt (on both a current and a pro forma basis) of the issuer and any significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or any subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities.

(6) The kind and amount of securities to be offered; the amount to be offered in this state; the proposed offering price and any variation therefrom at which any portion of the offering is to be made to any persons except as underwriting and selling discounts and commissions; the estimated aggregate underwriting and selling discounts or commissions and finders' fees (including separately cash, securities, or anything else of value to accrue to the underwriters in connection with the offering); the estimated amounts of other selling expenses, and legal, engineering, and accounting expenses to be incurred by the issuer in connection with the offering; the name and address of every underwriter and every recipient of a finders' fee; a copy of any underwriting or selling group agreement pursuant to which the distribution is to be made, or the proposed form of any such agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered otherwise than through an underwriter.

(7) The estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated, and the sources of any such funds; and, if any part of the proceeds is to be used to acquire any property (including goodwill) otherwise than in the ordinary course of business, the names and addresses of the vendors and the purchase price.

(8) A description of any stock options or other security options outstanding, or to be created in connection with the offering, together with the amount of any such options held or to be held by every person required to be named in RCW 21.20.210(2), (3), (4), (5) or (7) and by any person who holds or will hold ten percent or more in the aggregate of any such options.

(9) The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed.

(10) Any adverse order, judgment, or decree previously entered in connection with the offering by any court or the securities and exchange commission; a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including any such litigation or proceeding known to be contemplated by governmental authorities).

(11) A copy of any prospectus or circular intended as of the effective date to be used in connection with the offering.

(12) A specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, as currently in effect; and a copy of any indenture or other instrument covering the security to be registered.

(13) A signed or conformed copy of an opinion of counsel, if available, as to the legality of the security being registered.

(14)(a) ~~((If the issuer is a commercial, industrial or extractive company in the promotional, exploratory or development stage, the following statements:~~

~~(i) Separate statements of (A) assets, (B) liabilities, and (C) capital shares, as of a date within one hundred twenty days prior to the filing of the registration statement;~~

~~(ii) A statement of cash receipts and disbursements for each of at least three full fiscal years prior to the date of the statements furnished pursuant to paragraph (i) above, and for the period, if any, between the close of the last full fiscal year and the date of such statements, or for the period of the issuer's existence if less than the period specified above.~~

~~(iii) In such statements, dollar amounts shall be extended only for cash transactions and transactions involving amounts receivable or payable in cash.~~

~~(b) If paragraph (a) does not apply to the issuer, there shall be furnished) The following financial statements:~~

(i) ~~((Financial statements consisting of))~~ (A) Balance sheets as of the end of each of the three most recent fiscal years; and, if the date of the most recent fiscal year end is more than four months prior to the date of filing, (B) a balance sheet of the issuer as of a date within four months prior to the filing of the registration statement~~((, and as of the date of the end of the last fiscal year if more than four months prior to such filing))~~.

(ii) (A) Statements of income, shareholders' equity, and ~~((changes in financial position))~~ cash flows for each of the three fiscal years preceding the date of the latest balance sheet ~~((and))~~ or for the period of the issuer's and any predecessor's existence if less than three years and (B) statements of income, shareholders' equity, and cash flows for any period between the close of the last fiscal year and the date of the latest balance sheet~~((, or for the period of the issuer's and any predecessor's existence if less than three years))~~.

(iii) If any part of the proceeds of the offering is to be applied to the purchase of any business whose annual sales or revenues are in excess of fifteen percent of the registrant's sales or revenues or involves acquisition of assets in excess of fifteen percent of the registrant's assets, except as specifically exempted by the director, financial statements shall be filed which would be required if that business were the registrant.

~~((e))~~ (b)(i) If the estimated proceeds to be received from the offering, together with the proceeds from securities registered under this section during the year preceding the date of the filing of this registration statement, exceed one ~~((hundred thousand))~~ million dollars, the ~~((statements described in subsection (14)(a)(i) or (b)(i) of this section as of the date of the close of the last fiscal year))~~ balance sheet specified in (a)(i)(A) of this subsection as of the end of the last fiscal year and the related financial statements specified in (a)(ii)(A) of this subsection~~((s (14)(a)(ii) and (b)(ii) of this section))~~ for the last fiscal year shall be audited. ~~((For registration statements filed after December 31, 1975, and))~~

(ii) If such proceeds exceed ~~((five hundred thousand dollars;))~~ one million dollars but are not more than five million dollars, the balance sheet specified in (a)(i)(A) of this subsection as of the end of the most recent fiscal year and the financial statements specified in (a)(ii)(A) of this subsection~~((s (14)(a)(ii) and (b)(ii) of this section))~~ for the last ~~((two))~~ fiscal year~~((s))~~ shall be audited. ~~((For registration statements filed after December 31, 1979, and if such proceeds exceed five hundred thousand dollars, the statements described in subsection (14)(a)(i) or (b)(i) of this section as of the date of the close of the last fiscal year and the related financial statements specified in subsection (14)(a)(ii) and (b)(ii) of this section for the last fiscal year shall be audited.))~~

(iii) If such proceeds exceed ~~((seven hundred fifty thousand dollars;))~~ five million dollars but are not more than twenty-five million dollars, the balance sheets specified in (a)(i)(A) of this subsection as of the end of the last two fiscal years and the related financial statements specified in (a)(ii)(A) of this subsection



~~((14)(a)(ii) and (b)(ii) of this section))~~ for the last two fiscal years shall be audited.

~~((d))~~ (iv) If such proceeds exceed twenty-five million dollars, the balance sheets specified in (a)(i)(A) of this subsection and the related financial statements specified in (a)(ii)(A) of this subsection for the last three fiscal years shall be audited.

(c) The financial statements of this subsection and such other financial information as may be prescribed by the director shall be prepared as to form and content in accordance with generally accepted accounting principles and with the rules (and regulations) prescribed by the director, and (as provided in paragraph (e) above) when applicable, shall be audited by an independent certified public accountant who is (authorized to practice under the laws of the state of Washington) registered and in good standing as a certified public accountant under the laws of the place of his or her residence or principal office and who is not an employee, officer, or member of the board of directors of the issuer or a holder of the securities of the issuer. (The) An audit report of such independent certified public accountant shall be based upon an audit made in accordance with generally accepted auditing standards (with). The audit report shall have no limitations on its scope unless expressly authorized in writing by the director. The director may also verify such statements by examining the issuer's books and records.

(15) The written consent of any accountant, engineer, appraiser, attorney, or any person whose profession gives authority to a statement made by him or her, who is named as having prepared or audited any part of the registration statement or is named as having prepared or audited a report or valuation for use in connection with the registration statement.

**Sec. 17.** RCW 21.20.275 and 1979 ex.s. c 68 s 16 are each amended to read as follows:

The director may in his or her discretion ~~((mail))~~ send notice to the registrant in any pending registration in which no action has been taken for nine months immediately prior to the ~~((mailing))~~ sending of such notice, advising such registrant that the pending registration will be terminated thirty days from the date of ~~((mailing))~~ sending unless on or before ~~((said))~~ the termination date the registrant makes application in writing to the director showing good cause why it should be continued as a pending registration. If such application is not made or good cause shown, the director shall terminate the pending registration.

**Sec. 18.** RCW 21.20.310 and 1981 c 272 s 5 are each amended to read as follows:

RCW 21.20.140 through 21.20.300, inclusive, do not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any

certificate of deposit for any of the foregoing; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments are made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section: PROVIDED, That the director, by rule or order, may exempt any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise if the director finds that registration with respect to such securities is not necessary in the public interest and for the protection of investors.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption does not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security which meets the criteria for investment grade securities that the director may adopt by rule.

(9) Any prime quality negotiable commercial paper (~~((which))~~) not intended to be marketed to the general public and not advertised for sale to the general public that is of a type eligible for discounting by federal reserve banks, that arises out of a current transaction or the proceeds of which have been or are to be used for a current transaction, and (~~((which))~~) that evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal(~~((when such commercial paper is sold to the banks or insurance companies))~~).

(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing with a copy of the plan thirty days before offering the plan to employees in this state. In the event of late filing of notification the director may upon application, for good cause excuse such late filing if he or she finds it in the public interest to grant such relief.

(11) Any security issued by any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) exclusively for religious, educational, fraternal, or charitable purposes and which nonprofit organization also possesses a current tax exempt status under the laws of the United States, which security is offered or sold only to persons who, prior to their solicitation for the purchase of said securities, were members of, contributors to, or listed as participants in, the organization, or their relatives, if such nonprofit organization first files a notice specifying the terms of the offering and the director does not by order disallow the exemption within the next ten full business days: PROVIDED, That no offerings may be made until expiration of the ten full business days. Every such nonprofit organization which files a notice of exemption of such securities shall pay a filing fee as set forth in RCW 21.20.340(12) as now or hereafter amended.

The notice shall consist of the following:

- (a) The name and address of the issuer;
- (b) The names, addresses, and telephone numbers of the current officers and directors of the issuer;
- (c) A short description of the security, price per security, and the number of securities to be offered;
- (d) A statement of the nature and purposes of the organization as a basis for the exemption under this section;
- (e) A statement of the proposed use of the proceeds of the sale of the security; and
- (f) A statement that the issuer shall provide to a prospective purchaser written information regarding the securities offered prior to consummation of any sale, which information shall include the following statements: (i) "ANY

PROSPECTIVE PURCHASER IS ENTITLED TO REVIEW FINANCIAL STATEMENTS OF THE ISSUER WHICH SHALL BE FURNISHED UPON REQUEST."; (ii) "RECEIPT OF NOTICE OF EXEMPTION BY THE WASHINGTON ADMINISTRATOR OF SECURITIES DOES NOT SIGNIFY THAT THE ADMINISTRATOR HAS APPROVED OR RECOMMENDED THESE SECURITIES, NOR HAS THE ADMINISTRATOR PASSED UPON THE OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."; and (iii) "THE RETURN OF THE FUNDS OF THE PURCHASER IS DEPENDENT UPON THE FINANCIAL CONDITION OF THE ORGANIZATION."

(12) Any charitable gift annuities issued by a board of a state university, regional university, or of the state college.

(13) Any charitable gift annuity issued by an insurer or institution holding a certificate of exemption under RCW 48.38.010.

**Sec. 19.** RCW 21.20.330 and 1979 ex.s. c 68 s 23 are each amended to read as follows:

Every applicant for registration as a broker-dealer, investment adviser, investment adviser (~~(salesperson)~~) representative, or salesperson under this chapter and every issuer (~~(which proposes)~~) that files an application to register or files a claim of exemption from registration to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the director or with such person as the director may by rule or order designate, in such form as the director by rule prescribes, an irrevocable consent appointing the director or the director's successor in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or the applicant's successor, executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless (1) the plaintiff, who may be the director in a suit, action, or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at the last address of the respondent or defendant on file with the director, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

**Sec. 20.** RCW 21.20.340 and 1988 c 244 s 17 are each amended to read as follows:

The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of ~~((all)) securities ((other than investment trusts and securities registered by coordination))~~ by qualification, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve-month period only the unsold portion for which the registration fee has been paid.

(2) For registration by coordination of securities issued by ~~((a face amount certificate company or redeemable security issued by an open end management company or investment trust))~~ an investment company, other than a closed-end company, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: PROVIDED, HOWEVER, That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve-month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination ~~((, other than investment trusts))~~ of securities not covered by subsection (2) of this section, the initial filing fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-fortieth of one percent for any excess over one hundred thousand dollars for the first twelve-month period plus one hundred dollars for each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and seventy-five dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesperson or investment adviser ~~((salesperson))~~ representative, the fee shall be forty dollars for original registration with each employer and twenty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) ~~((For written examination for registration as a salesperson or investment adviser salesperson, the fee shall be fifteen dollars. For examinations for registration as a broker-dealer or investment adviser, the fee shall be fifty dollars.~~

~~(9))~~ If a registration of a broker-dealer, salesperson, investment adviser, or investment adviser ~~((salesperson))~~ representative is not renewed on or before

December 31st of each year the renewal is delinquent. The director by rule or order may set and assess a fee for delinquency not to exceed two hundred dollars. Acceptance by the director of an application for renewal after December 31st is not a waiver of delinquency. A delinquent application for renewal will not be accepted for filing after March 1st.

~~((10))~~ (9)(a) For the transfer of a broker-dealer license to a successor, the fee shall be fifty dollars.

(b) For the transfer of a salesperson license from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be twenty-five dollars.

(c) For the transfer of an investment adviser ~~((salesperson))~~ representative license from an investment adviser to another investment adviser, the transfer fee shall be twenty-five dollars.

(d) For the transfer of an investment adviser license to a successor, the fee shall be fifty dollars.

~~((11))~~ (10) The director may provide by rule for the filing of notice of claim of exemption under RCW 21.20.320 (1), (9), and (17) and set fees accordingly not to exceed three hundred dollars.

~~((12))~~ (11) For filing of notification of claim of exemption from registration pursuant to RCW 21.20.310(11), as now or hereafter amended, the fee shall be fifty dollars for each filing.

~~((13))~~ (12) For rendering interpretative opinions, the fee shall be thirty-five dollars.

~~((14))~~ (13) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

~~((15))~~ (14) For a duplicate license the fee shall be five dollars.

All fees collected under this chapter shall be turned in to the state treasury and are not refundable, except as herein provided.

**Sec. 21.** RCW 21.20.370 and 1979 ex.s. c 68 s 25 are each amended to read as follows:

The director in his or her discretion (1) may annually, or more frequently, make such public or private investigations within or without this state as the director deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is about to violate any provision of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder, (2) may require or permit any person to file a statement in writing, under oath or otherwise as the director may determine, as to all the facts and circumstances concerning the matter to be investigated, and (3) ~~((shall))~~ may publish information concerning any violation of this chapter or any rule or order hereunder.

**Sec. 22.** RCW 21.20.380 and 1979 ex.s. c 68 s 26 are each amended to read as follows:

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, or on the refusal of any witness to testify to any matters regarding which the witness may be lawfully interrogated, ~~((the superior court))~~ a court of competent jurisdiction of any county or the judge thereof, on application of the director, and after satisfactory evidence of wilful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein.

**Sec. 23.** RCW 21.20.390 and 1981 c 272 s 8 are each amended to read as follows:

Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, the director may in his or her discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice: PROVIDED, That reasonable notice of and opportunity for a hearing shall be given: PROVIDED, FURTHER, That the director may issue a temporary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order hereunder. The court may grant such ancillary relief as it deems appropriate. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. If the director prevails, the director shall be entitled to a reasonable attorney's fee to be fixed by the court.

(3) Whenever it appears to the director that any person who has received a permit to issue, sell, or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a court of competent jurisdiction to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

(4) The director may bring an action for restitution or damages on behalf of the persons injured by a violation of this chapter, if the court finds that private civil action would be so burdensome or expensive as to be impractical.

**Sec. 24.** RCW 21.20.450 and 1993 c 472 s 15 are each amended to read as follows:

(1) The administration of the provisions of this chapter shall be under the department of financial institutions. The director may from time to time make, amend, and repeal such rules ((and)), forms, and orders as are necessary to carry out the provisions of this chapter, including rules defining any term, whether or not such term is used in the Washington securities law. The director may classify securities, persons, and matters within the director's jurisdiction, and prescribe different requirements for different classes. No rule ((or)), form, or order may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms the director may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and forms of the director shall be published.

(2) To encourage uniform interpretation and administration of this chapter and effective securities regulation and enforcement, the director may cooperate with the securities agencies or administrators of one or more states, Canadian provinces or territories, or another country, the securities and exchange commission, the commodity futures trading commission, the securities investor protection corporation, any self-regulatory organization, any national or international organization of securities officials or agencies, and any governmental law enforcement or regulatory agency.

(3) The cooperation authorized by subsection (2) of this section includes:

(a) Establishing a central depository for licensing or registration under this chapter and for documents or records required or allowed to be maintained under this chapter;

(b) Making a joint license or registration examination or investigation;

(c) Holding a joint administrative hearing;

(d) Filing and prosecuting a joint civil or administrative hearing;

(e) Sharing and exchanging personnel;

(f) Sharing and exchanging information and documents; and

(g) Formulating under chapter 34.05 RCW, rules or proposed rules on matters such as statements of policy, guidelines, and interpretative opinions and releases.

**Sec. 25.** RCW 21.20.510 and 1959 c 282 s 51 are each amended to read as follows:



A document is filed with the director when it is received by the director or by a person as the director designates by rule or order. The director or the director's designee shall keep a register of all applications for registration and registration statements which are or have ever been effective under this chapter and all denial, suspension, or revocation orders which have ever been entered under this chapter. The register shall be open for public inspection. The information contained in or filed with any registration statement, application, or report may be made available to the public under such rules as the director prescribes.

**Sec. 26.** RCW 21.20.702 and 1993 c 470 s 2 are each amended to read as follows:

(1) In recommending to a customer the purchase, sale, or exchange of a security, a broker-dealer, salesperson, investment adviser, or investment adviser (~~((salesperson))~~) representative must have reasonable grounds for believing that the recommendation is suitable for the customer upon the basis of the facts, if any, disclosed by the customer as to his or her other security holdings and as to his or her financial situation and needs.

(2) Before the execution of a transaction recommended to a noninstitutional customer, other than transactions with customers where investments are limited to money market mutual funds, a broker-dealer, salesperson, investment adviser, or investment adviser (~~((salesperson))~~) representative shall make reasonable efforts to obtain information concerning:

- (a) The customer's financial status;
- (b) The customer's tax status;
- (c) The customer's investment objectives; and
- (d) Such other information used or considered to be reasonable by the broker-dealer, salesperson, investment adviser, or investment adviser (~~((salesperson or registered))~~) representative in making recommendations to the customer.

**Sec. 27.** RCW 23B.02.020 and 1989 c 165 s 27 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) 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;

(q) 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;

(r) 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;

(s) 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;

(t) 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;

(u) 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;

(v) Directors are elected by cumulative voting under RCW 23B.07.280;

(w) Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280;

(x) A corporation must have a board of directors under RCW 23B.08.010;

(y) 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;

(z) The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;

(aa) A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;

(bb) 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;

(cc) 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;

(dd) 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;

(ee) 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;

(ff) 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;

(gg) 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;

(hh) Unless the title or the board of directors require 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;

(ii) 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;

(jj) 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;

(kk) 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;

(ll) 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;

(mm) 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;

(nn) 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; and

(oo) A corporation with fewer than three hundred holders of record of its shares does not require special approval of interested shareholder transactions under RCW 23B.17.020.

(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) 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;

(g) The terms of directors may be staggered under RCW 23B.08.060;

(h) 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

(i) 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; ~~((and))~~

(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 section 31 of this act.

(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title.

**Sec. 28.** RCW 23B.07.010 and 1989 c 165 s 60 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a corporation shall hold a meeting of shareholders annually 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.

~~((3))~~ (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.

Sec. 29. RCW 23B.08.030 and 1989 c 165 s 82 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 section 31 of this act.

Sec. 30. RCW 23B.08.050 and 1989 c 165 s 84 are each amended to read as follows:

(1) The terms of the initial directors of a corporation expire at the first shareholders' meeting at which directors are elected.

(2) The terms of all other directors expire at the next annual shareholders' meeting following their election unless (a) their terms are staggered under RCW 23B.08.060, or (b) their terms are otherwise governed by section 31 of this act.

(3) A decrease in the number of directors does not shorten an incumbent director's term.

(4) The term of a director elected to fill a vacancy expires at the next shareholders' meeting at which directors are elected.

(5) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected and qualified or until there is a decrease in the number of directors.

NEW SECTION. Sec. 31. A new section is added to chapter 23B.05 RCW to read as follows:

A corporation registered under the investment company act of 1940 that limits the requirement to hold an annual meeting of shareholders in accordance with RCW 23B.07.010(2) may include in its articles of incorporation or bylaws

a provision establishing terms of directors which terms may be longer than one year.

**Sec. 32.** RCW 30.04.020 and 1986 c 284 s 15 are each amended to read as follows:

(1) The name of every bank shall contain the word "bank" and the name of every trust company shall contain the word "trust," or the word "bank." Except as provided in RCW 33.08.030 or as otherwise approved by the director, no person except:

~~((1))~~ (a) A national bank;

~~((2))~~ (b) A bank or trust company authorized by the laws of this state;

~~((3))~~ (c) A corporation established under RCW 31.30.010;

~~((4))~~ (d) A foreign corporation authorized by this title so to do, shall~~(-~~  
(a)):

(i) Use as a part of his or its name or other business designation or in any manner as if connected with his or its business or place of business any of the following words or the plural thereof, to wit: "bank," "banking," "banker," "trust."

~~((b))~~ (ii) Use any sign at or about his or its place of business or use or circulate any advertisement, letterhead, billhead, note, receipt, certificate, blank, form, or any written or printed or part written and part printed paper, instrument or article whatsoever, directly or indirectly indicating that the business of such person is that of a bank or trust company.

(2) A foreign corporation, whose name contains the words "bank," "banker," "banking," or "trust," or whose articles of incorporation empower it to engage in banking or to engage in a trust business, may not engage in banking or in a trust business in this state unless the corporation (a) is expressly authorized to do so under this title, under federal law, or by the director, and (b) complies with all applicable requirements of chapter 23B.15 RCW regarding foreign corporations. If an activity would not constitute "transacting business" within the meaning of RCW 23B.15.010(1) or chapter 23B.18 RCW, then the activity shall not constitute banking or engaging in a trust business. Nothing in this subsection shall prevent operations by an alien bank in compliance with chapter 30.42 RCW.

(3) This section shall not prevent a lender approved by the United States secretary of housing and urban development for participation in any mortgage insurance program under the National Housing Act from using the words "mortgage banker" or "mortgage banking" in the conduct of its business, but only if both words are used together in either of the forms which appear in quotations in this sentence.

(4) Every person who, and every director and officer of every corporation which, to the knowledge of such director or officer violates any provision of this section shall be guilty of a gross misdemeanor.



**Sec. 33.** RCW 30.04.125 and 1986 c 279 s 5 are each amended to read as follows:

Unless otherwise prohibited by law, any state bank or trust company may invest in the capital stock of corporations organized to conduct the following businesses:

(1) A safe deposit business: PROVIDED, That the amount of investment does not exceed fifteen percent of its capital stock and surplus, without the approval of the director;

(2) A corporation holding the premises of the bank or its branches: PROVIDED, That without the approval of the ~~((supervisor))~~ director, the investment of such stock shall not exceed, together with all loans made to the corporation by the bank, a sum equal to the amount permitted to be invested in the premises by RCW 30.04.210;

(3) Stock in a small business investment company licensed and regulated by the United States as authorized by the small business act, Public Law 85-536, 72 Statutes at Large 384, in an amount not to exceed five percent of its capital and surplus without the approval of the director;

(4) Capital stock of a banking service corporation or corporations. The total amount that a bank may invest in the shares of such corporation may not exceed ten percent of its capital and surplus without the approval of the director. A bank service corporation may not engage in any activity other than those permitted by the bank service corporation act, 12 U.S.C. Sec. 1861, et seq., as subsequently amended and in effect on ~~((June 11, 1986))~~ December 31, 1993. The performance of any service, and any records maintained by any such corporation for a bank, shall be subject to regulation and examination by the ~~((supervisor))~~ director and appropriate federal agencies to the same extent as if the services or records were being performed or maintained by the bank on its own premises;

(5) Capital stock of a federal reserve bank to the extent required by such federal reserve bank;

(6) A corporation engaging in business activities that have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking, as of ~~((June 11, 1986))~~ December 31, 1993;

(7) A governmentally sponsored corporation engaged in secondary marketing of loans and the stock of which must be owned in order to participate in its marketing activities;

(8) A corporation in which all of the voting stock is owned by the bank and that engages exclusively in nondeposit-taking activities that are authorized to be engaged in by the bank or trust company~~((:))~~;

(9) A bank or trust company may purchase for its own account shares of stock of a bank or a holding company that owns or controls a bank if the stock of the bank or company is owned exclusively, except to the extent directly

qualifying shares are required by law, by depository institutions and the bank or company and all subsidiaries thereof are engaged exclusively in providing services for other depository institutions and their officers, directors, and employees. In no event may the total amount of such stock held by a bank or trust company in any bank or bank holding company exceed at any time ten percent of its capital stock and paid-in and unimpaired surplus, and in no event may the purchase of such stock result in a bank or trust company acquiring more than twenty-five percent of any class of voting securities of such bank or company. Such a bank or bank holding company shall be called a "banker's bank."

**Sec. 34.** RCW 30.04.130 and 1986 c 279 s 6 are each amended to read as follows:

~~((Any debt due a bank or trust company on which interest is one year or more past due and unpaid, unless such debt be well secured and in the course of collection by legal process or probate proceedings, or unless such debt be represented by or secured by bonds or other collateral having a readily ascertainable market value shall be considered a bad debt, and shall be charged off of the books of such corporation. Such assets shall be carried on the books of such corporation at such value as the supervisor may from time to time direct, but in no event shall such carrying value exceed the market value thereof. A judgment held by a bank or trust company shall not be considered an asset of the corporation after two years from the date of its rendition unless with the written permission of the supervisor specifying an additional period: PROVIDED, That time consumed by any appeal shall be excluded.))~~

Based on examinations directed pursuant to RCW 30.04.060 or other appropriate information, all assets or portion thereof that the ((supervisor) director may have required a bank or trust company to charge off shall be charged off. No bank or trust company shall enter or at any time carry on its books any of its assets or liabilities at a valuation ((exceeding the actual cost. However, accreting the discount on securities is permitted on a pro rata basis, over the life of the security)) contrary to generally accepted accounting principles.

**Sec. 35.** RCW 30.04.180 and 1986 c 279 s 8 are each amended to read as follows:

No bank or trust company shall declare or pay any dividend to an amount greater than its ~~((net profits then on hand.~~

~~The board of directors of any bank or trust company may declare a dividend out of so much of the undivided profits of such bank or trust company as they shall judge expedient: PROVIDED, HOWEVER, That before any such dividend is declared or the net profits in any way disposed of, not less than one-tenth of such net profits shall be carried to a surplus fund until the amount in such surplus fund shall be equal to twenty-five percent of the paid-in common stock of such bank or trust company: PROVIDED, FURTHER, That for the purposes~~

~~of this section, any amounts paid into a fund for the retirement of any preferred stock of any such bank and trust company out of its net profits for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the bank and trust company shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired: PROVIDED FURTHER, That~~ retained earnings, without approval from the director. The ((supervisor)) director shall in his or her discretion have the power to require any bank or trust company to suspend the payment of any and all dividends until all requirements that may have been made by the ((supervisor)) director shall have been complied with; and upon such notice to suspend dividends no bank or trust company shall thereafter declare or pay any dividends until such notice has been rescinded in writing. A dividend is payable in cash, property, or capital stock, but the restrictions on the payment of a dividend (other than restrictions imposed by the director pursuant to his or her authority to require the suspension of the payment of any or all dividends) do not apply to a dividend payable by the bank or trust company solely in its own capital stock. For purposes of this section, "retained earnings" shall be determined by generally accepted accounting principles.

**Sec. 36.** RCW 30.04.210 and 1986 c 279 s 9 are each amended to read as follows:

A bank or trust company may purchase, hold, and convey real estate for the following purposes:

(1) Such as shall be necessary for the convenient transaction of its business, including with its banking offices other space in the same building to rent as a source of income: PROVIDED, That any bank or trust company shall not invest for such purposes more than the greater of: (a) Fifty percent of its capital, surplus, and undivided profits; or (b) one hundred twenty-five percent of its capital stock without the approval of the ((supervisor)) director.

(2) Such as shall be purchased or conveyed to it in satisfaction, or on account of, debts previously contracted in the course of its business.

(3) Such as it shall purchase at sale under judgments, decrees, liens, or mortgage foreclosures, from debts owed to it.

(4) Such as a trust company receives in trust or acquires pursuant to the terms or authority of any trust.

(5) Such as it may take title to or for the purpose of investing in real estate conditional sales contracts.

(6) Such as shall be purchased, held, or conveyed in accordance with RCW 30.04.212 granting banks the power to invest directly or indirectly in unimproved or improved real estate.

~~((No real estate specified in subdivision (4) shall be considered an asset of the bank or trust company holding the same in trust nor shall any real estate~~

~~except that specified in subdivision (1) be carried as an asset on the bank's or trust company's books for a longer period than five years from the date title is acquired thereto, unless an extension of time be granted by the supervisor.))~~

Sec. 37. RCW 30.04.215 and 1986 c 279 s 10 are each amended to read as follows:

(1) Notwithstanding any other provisions of law, in addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that have been determined by the board of governors of the federal reserve system or by the United States Congress to be closely related to the business of banking, as of ~~((June 11, 1986. At least thirty days before investment in corporations or other entities under this chapter, notification by letter shall be made to the supervisor in accordance with such terms and conditions as the supervisor might establish by rule))~~ December 31, 1993.

(2) A bank that desires to perform an activity that is not expressly authorized by subsection (1) of this section shall first apply to the ~~((supervisor))~~ director for authorization to conduct such activity. Within thirty days of the receipt of this application, the ~~((supervisor))~~ director shall determine whether the activity is closely related to the business of banking, whether the public convenience and advantage will be promoted, whether the activity is apt to create an unsafe or unsound practice by the bank and whether the applicant is capable of performing such an activity. If the ~~((supervisor))~~ director finds the activity to be closely related to the business of banking and the bank is otherwise qualified, he or she shall forthwith inform the applicant that the activity is authorized. If the ~~((supervisor))~~ director determines that such activity is not closely related to the business of banking or the bank is not otherwise qualified, he or she shall forthwith inform the applicant in writing. The applicant shall have the right to appeal from an unfavorable determination in accordance with the procedures of the Administrative Procedure Act, chapter 34.05 RCW. In determining whether a particular activity is closely related to the business of banking, the ~~((supervisor))~~ director shall be guided by the rulings of the board of governors of the federal reserve system and the comptroller of the currency in making determinations in connection with the powers exercisable by bank holding companies, and the activities performed by other commercial banks or their holding companies. ~~((Any activity which may be performed by a bank, except the taking of deposits, may be performed by a corporation, all of the outstanding stock of which is owned by the bank.))~~

(3) In addition to all powers enumerated by this title, and those necessarily implied therefrom, a bank may engage in other business activities that are determined by the ~~((supervisor))~~ director, by regulation adopted pursuant to chapter 34.05 RCW, to be closely related to the business of banking, or necessary or convenient thereto, and the exercise thereof will promote the public convenience and advantage. Provided, however, that such other business

activities shall also have been determined by the board of governors of the federal reserve system or by the United States congress to be closely related to the business of banking.

(4) Any activity which may be performed by a bank, except the taking of deposits, may be performed by (a) a corporation or (b) another entity approved by the director, which in either case is owned in whole or in part by the bank.

**Sec. 38.** RCW 30.04.555 and 1986 c 279 s 41 are each amended to read as follows:

A reorganization authorized under RCW 30.04.550 shall be carried out in the following manner:

(1) A plan of reorganization specifying the manner in which the reorganization shall be carried out must be approved by a majority of the entire board of directors of the banking corporation. The plan shall specify the name of the acquiring corporation, the amount of cash, securities of the bank holding company, other consideration, or any combination thereof to be paid to the shareholders of the reorganizing corporation in exchange for their shares of the stock of the corporation. The plan shall also specify the exchange date or the manner in which such exchange date shall be determined, the manner in which the exchange shall be carried out, and such other matters, not inconsistent with this chapter, as shall be determined by the board of directors of the corporation.

(2) The plan of reorganization shall be submitted to the shareholders of the reorganizing corporation at a meeting to be held on the call of the directors. Notice of the meeting of shareholders at which the plan shall be considered shall be given by ~~((certified))~~ prepaid first class mail at least twenty days before the date of the meeting, to each stockholder of record of the banking corporation. The notice shall state that dissenting shareholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

**Sec. 39.** RCW 30.04.565 and 1982 c 196 s 4 are each amended to read as follows:

The value of the shares of a dissenting shareholder who has properly perfected dissenter's rights shall be ascertained as of the day prior to the date of the shareholder action approving such reorganization by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the acquiring bank holding company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of the third appraisal, and the acquiring bank holding company shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the appraisal is not completed within ninety days after the effective date of the reorganization, the ~~((supervisor of banking))~~ director shall cause an appraisal to be made which shall be final and binding upon all parties. The cost of such appraisal shall be borne equally by the dissenting shareholders and the acquiring bank holding

company. The dissenting shareholders shall share their half of the cost on a pro rata basis based on the number of dissenting shares owned.

**Sec. 40.** RCW 30.04.575 and 1986 c 279 s 44 are each amended to read as follows:

Prior to the approval of the reorganization, the ~~((supervisor))~~ director, upon request of the board of directors of the bank, or not less than ten percent of its shareholders, shall hold a public hearing at which bank shareholders and other interested parties may appear. Notice of the public hearing shall be sent to each shareholder ~~((and otherwise publicized in accordance with the administrative procedure act, chapter 34.05 RCW))~~ by prepaid first class mail.

The approval of the reorganization by the ~~((supervisor of banking))~~ director shall be conditioned on a finding that the terms of the reorganization are fair to the shareholders and other interested parties.

**Sec. 41.** RCW 30.08.010 and 1986 c 279 s 17 are each amended to read as follows:

When authorized by the ~~((supervisor))~~ director, as hereinafter provided, ~~((five))~~ one or more natural persons, citizens of the United States, may incorporate a bank or trust company in the manner herein prescribed. No bank or trust company shall incorporate for less amount nor commence business unless it has a paid-in capital stock, surplus and undivided profits in the amount as may be determined by the ~~((supervisor))~~ director after consideration of the proposed location, management, and the population and economic characteristics for the area, the nature of the proposed activities and operation of the bank or trust company, and other factors deemed pertinent by the ~~((supervisor))~~ director. Each bank and trust company shall before commencing business have subscribed and paid into it in the same manner as is required for capital stock, an amount equal to at least ten percent of the capital stock above required, that shall be carried in the undivided profit account and may be used to defray organization and operating expenses of the company. Any sum not so used shall be transferred to the surplus fund of the company before any dividend shall be declared to the stockholders.

**Sec. 42.** RCW 30.08.020 and 1986 c 279 s 18 are each amended to read as follows:

Persons desiring to incorporate a bank or trust company shall file with the ~~((supervisor))~~ director a notice of their intention to organize a bank or trust company in such form and containing such information as the ~~((supervisor))~~ director shall prescribe by regulation, together with proposed articles of incorporation, which shall be submitted for examination to the ~~((supervisor))~~ director at ~~((his))~~ the director's office in Olympia.

The proposed articles of incorporation shall state:

- (1) The name of such bank or trust company.

(2) The city, village or locality and county where the head office of such corporation is to be located.

(3) The nature of its business, whether that of a commercial bank, or a trust company.

(4) The amount of its capital stock, which shall be divided into shares of a par or no par value as may be provided in the articles of incorporation.

(5) The names and places of residence and mailing addresses of the persons who as directors are to manage the corporation until the first annual meeting of its stockholders.

(6) If there is to be preferred or special classes of stock, a statement of preferences, voting rights, if any, limitations and relative rights in respect of the shares of each class; or a statement that the shares of each class shall have the attributes as shall be determined by the bank's board of directors from time to time with the approval of the ~~((supervisor))~~ director.

(7) Any provision granting the shareholders the preemptive right to acquire additional shares of the bank and any provision granting shareholders the right to cumulate their votes.

(8) Any provision, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the ~~((internal))~~ affairs of the corporation, including any provision restricting the transfer of shares ~~((and))~~, any provision which under this title is required or permitted to be set forth in the bylaws, and any provision permitted by RCW 23B.17.030.

(9) Any provision the incorporators elect to so set forth, not inconsistent with law or the purposes for which the bank is organized, or any provision limiting any of the powers granted in this title.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers granted in this title. The articles of incorporation shall be signed by all of the incorporators ~~((and acknowledged before an officer to take acknowledgments))~~.

**Sec. 43.** RCW 30.08.040 and 1981 c 302 s 15 are each amended to read as follows:

After the ~~((supervisor shall have satisfied himself))~~ director is satisfied of the above facts, and, within six months of the date the notice of intention to organize has been received in his or her office, ~~((he))~~ the director shall notify the incorporators to file executed ~~((and acknowledged))~~ articles of incorporation with him or her in triplicate. Unless the ~~((supervisor))~~ director otherwise consents in writing, such articles shall be in the same form and shall contain the same information as the proposed articles and shall be filed with him or her within ten days of such notice. Within thirty days after the receipt of such articles of incorporation, ~~((he))~~ director shall endorse upon each of the triplicates thereof, over his or her official signature, the word "approved," or the word "refused," with the date of such endorsement. In case of refusal he or she shall forthwith return one of the triplicates, so endorsed, together with a statement explaining the

reason for refusal to the person from whom the articles were received, which refusal shall be conclusive, unless the incorporators, within ten days of the issuance of such notice of refusal, shall request a hearing pursuant to the Administrative Procedure Act, chapter 34.05 RCW, as now or hereafter amended.

**Sec. 44.** RCW 30.08.082 and 1986 c 279 s 22 are each amended to read as follows:

(1) Notwithstanding any other provisions of law and if so authorized by its articles of incorporation or amendments thereto made in the manner provided in the case of a capital increase, any bank or trust company may, pursuant to action taken by its board of directors from time to time with the approval of the ~~((supervisor))~~ director, issue shares of preferred or special classes of stock with the attributes and in such amounts and with such par value, if any, as shall be determined by the board of directors from time to time with the approval of the ~~((supervisor))~~ director. No increase of preferred stock shall be valid until the amount thereof shall have been subscribed and actually paid in ~~((and a certificate of increase is received from the supervisor))~~.

(2) If provided in its articles of incorporation, a bank or trust company may issue shares of preferred or special classes having any one or several of the following provisions:

(a) Subjecting the shares to the right of the bank or trust company to repurchase or retire any such shares at the price fixed by the articles of incorporation for the repurchase or retirement thereof;

(b) Entitling the holders thereof to cumulative, noncumulative, or partially cumulative dividends;

(c) Having preference over any other class or classes of shares as to the payment of dividends;

(d) Having preference in the assets of the bank or trust company over any other class or classes of shares upon the voluntary or involuntary liquidation of the bank or trust company;

(e) Having voting or nonvoting rights; and

(f) Being convertible into shares of any other class or into shares of any series of the same or any other class, except a class having prior or superior rights and preferences as to dividends or distribution of assets upon liquidation.

**Sec. 45.** RCW 30.08.087 and 1986 c 279 s 26 are each amended to read as follows:

Any bank or trust company may provide in its articles of incorporation or amendments thereto for authorized but unissued shares of its capital stock. The shares may be issued for such consideration as shall be established by the board from time to time ~~((but for not less than the par value, if any,))~~ and all consideration received therefor shall be allocated to the capital stock or surplus of the corporation.



Sec. 46. RCW 30.08.088 and 1986 c 279 s 27 are each amended to read as follows:

~~The authorized but unissued shares shall not become a part of the capital stock until they have been issued and paid for. ((Prior to the issuance of authorized but unissued stock, the bank shall notify the supervisor of the proposed issuance and the consideration to be received therefor and receive the supervisor's approval thereof, except that such notification and such approval shall not be required if the authorized but unissued stock is issued to employees of the bank pursuant to approved stock option, stock purchase, stock bonus or other similar plans approved by the supervisor.))~~

Sec. 47. RCW 30.08.090 and 1987 c 420 s 3 are each amended to read as follows:

~~((Any bank or trust company may amend its articles of incorporation, in any manner not inconsistent with the provisions of this title, by a vote of the stockholders representing two-thirds of each class of shares entitled to vote under the terms of the shares at any regular meeting, or special meeting duly called for that purpose in the manner prescribed by its bylaws. A certificate of the fact and the terms of the amendment shall be executed by a majority of the directors and filed as required herein for articles of incorporation. No amendment shall be made whereby a bank becomes a trust company unless such bank shall first receive permission from the supervisor.))~~ Unless the articles of incorporation provide otherwise, the board of directors of a bank or trust company may, by majority vote, amend the bank or trust company's articles of incorporation without shareholder action as follows:

(1) If the bank or trust company has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(2) To delete the name and address of the initial directors;

(3) If the bank or trust company has only one class of shares outstanding, solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the bank or trust company's own shares, or solely to do so and to change the number of authorized shares in proportion thereto;

(4) To change the bank or trust company's name; or

(5) To make any other change expressly permitted by this title to be made without shareholder action.

Other amendments to a bank or trust company's articles of incorporation, in a manner not inconsistent with the provisions of this title, require the affirmative vote of the stockholders representing two-thirds of each class of shares entitled to vote under the terms of the shares at a regular meeting, or special meeting duly called for that purpose in the manner prescribed by the bank or trust company's bylaws. No amendment shall be made whereby a bank becomes a trust company unless such bank first receives permission from the director.

**Sec. 48.** RCW 30.08.092 and 1987 c 420 s 4 are each amended to read as follows:

A bank or trust company may increase or decrease its capital stock by amendment to its articles of incorporation. No issuance of capital stock shall be valid, until the amount thereof shall have been actually paid in (~~and a certificate of increase is received from the supervisor~~). No reduction of the capital stock shall be made to an amount less than is required for capital by the (~~supervisor~~) director.

~~((Banks having authorized but unissued stock shall disclose on all statements of condition the amount of authorized stock, and the amount of issued and paid-in stock, as certified by the supervisor. The supervisor shall certify to each bank having authorized but unissued stock the amount of its issued and paid-in capital stock, and this amount shall be used in all statements of condition and in computing the capital of the bank for purposes of determining loan or investment limits until a new certificate is issued by the supervisor. In cases where a bank issued authorized but unissued stock as permitted by this title, a new certificate need not be requested upon each stock issue. However, if the bank so requests and the supervisor approves, a certificate of issued and paid-in capital stock shall be issued by the supervisor. A new certificate must be requested at such time as any increase of paid-in capital stock represents five percent of the authorized capital stock and at such time as there is no remaining authorized but unissued stock.))~~

**Sec. 49.** RCW 30.08.095 and 1981 c 302 s 19 are each amended to read as follows:

The (~~supervisor~~) director shall collect (~~in advance~~) fees for the following services:

For filing application for certificate of authority and attendant investigation as outlined in the law;

For filing application for certificate conferring trust powers upon a state or national bank;

For filing articles of incorporation, or amendments thereof, or other certificates required to be filed in his office;

For filing merger agreement and attendant investigation;

For filing application to relocate main office or branch and attendant investigation;

~~((For issuing a certificate of increase or decrease of capital stock.))~~

For issuing each certificate of authority;

For furnishing copies of papers filed in his or her office, per page.

The (~~supervisor~~) director shall establish the amount of the fee for each of the above transactions, and for other services rendered by the (~~division of banking~~) department of financial institutions by rules (~~and regulations~~) promulgated pursuant to the Administrative Procedure Act, chapter 34.05 RCW (~~as now or hereafter amended~~).

Every bank or trust company shall also pay to the secretary of state for filing any instrument with him or her the same fees as are required of general corporations for filing corresponding instruments, and also the same license fees as are required of general corporations.

*\*Sec. 50. RCW 30.08.180 and 1955 c 33 s 30.08.180 are each amended to read as follows:*

*Every bank and trust company shall make at least three regular reports each year to the ~~((supervisor))~~ director, as of the dates which he or she shall designate, according to form prescribed by him or her, verified by the president, manager or cashier and attested by at least two directors, which shall exhibit under appropriate heads the resources and liabilities of such corporation. The dates designated by the ~~((supervisor))~~ director shall be the dates designated by the comptroller of the currency of the United States for reports of national banking associations. ~~((Each such report in condensed form, to be prescribed by the supervisor, shall be published once in a newspaper of general circulation, published in a place where the corporation is located, or if there be no newspaper published in such place, then in some newspaper published in the same county.))~~*

*Every such corporation shall also make such special reports as the ~~((supervisor))~~ director shall call for.*

*\*Sec. 50 was vetoed, see message at end of chapter.*

Sec. 51. RCW 30.08.190 and 1977 c 38 s 1 are each amended to read as follows:

(1) Every regular report shall be filed with the ~~((supervisor))~~ director within thirty days from the date of issuance of the notice ~~((therefor and proof of publication of such report shall be filed with the supervisor within forty days from such date))~~. Every special report shall be filed with the ~~((supervisor))~~ director within such time as shall be specified by him or her in the notice therefor.

(2) Every bank and trust company which fails to file any report, required to be filed ~~((as aforesaid, or to file proof of publication of any report required to be published,))~~ under subsection (1) of this section and within the time ~~((herein))~~ specified, shall be subject to a penalty of fifty dollars per day for each day's delay. A civil action for the recovery of any such penalty may be brought by the attorney general in the name of the state.

NEW SECTION. Sec. 52. A new section is added to chapter 30.08 RCW to read as follows:

(1) Shares of a bank or trust company may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the

information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a bank or trust company 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 bank or trust company.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the bank or trust company shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section.

**NEW SECTION. Sec. 53.** A new section is added to chapter 30.08 RCW to read as follows:

A bank or trust company amending its articles of incorporation shall deliver articles of amendment to the director for filing as required for articles of incorporation. The articles of amendment shall set forth:

(1) The name of the bank or trust company;

(2) The text of each amendment adopted;

(3) The date of each amendment's adoption;

(4) If the amendment was adopted by the incorporators or board of directors without shareholder action, a statement to that effect and that shareholder action was not required; and

(5) If shareholder action was required, a statement that the amendment was duly approved by the shareholders in accordance with the provisions of RCW 30.08.090.

**Sec. 54.** RCW 30.12.010 and 1987 c 420 s 1 are each amended to read as follows:

Every bank and trust company shall be managed by not less than five directors, who need not be residents of this state. Directors shall be elected by the stockholders and hold office for such term as is specified in the articles of incorporation, not exceeding three years, and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the bank's or trust company's bylaws. Shareholders may not cumulate their votes unless the articles of incorporation specifically so provide. If for any cause no election is held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. The directors shall meet at least once each quarter and whenever required by the (~~supervisor~~) director. A majority of the then serving board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the

articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

~~((Immediately upon election,))~~ Each director ~~((shall take, subscribe, swear to, and file with the supervisor an oath that he will)),~~ so far as the duty devolves upon him~~(;)~~ or her, shall diligently and honestly administer the affairs of such corporation and ~~((with))~~ shall not knowingly violate or willingly permit to be violated any provision of law applicable to such corporation. Vacancies in the board of directors shall be filled by the board.

**Sec. 55.** RCW 30.12.020 and 1986 c 279 s 31 are each amended to read as follows:

All meetings of the stockholders of any bank or trust company, except organization meetings~~(;)~~ and meetings held with the consent of all stockholders, must be held in the county in which the head office or any branch of the corporation is located. Meetings of the directors of any bank or trust company may be held either within or without this state. Every such corporation shall keep records in which shall be recorded the names and residences of the stockholders thereof, the number of shares held by each, and also the transfers of stock, showing the time when made, the number of shares and by whom transferred. In all actions, suits and proceedings, said records shall be prima facie proof of the facts shown therein. All of the corporate books, including the certificate book, stockholders' ledger and minute book or a copy thereof shall be kept at the corporation's principal place of business. Any books, record, and minutes may be in written form or any other form capable of being converted to written form within a reasonable time.

**NEW SECTION.** **Sec. 56.** RCW 30.04.085 is recodified as a section in chapter 30.20 RCW.

**NEW SECTION.** **Sec. 57.** A new section is added to chapter 30.43 RCW to read as follows:

The legislature finds that the establishment and operation of off-premises electronic facilities, inside and outside the state of Washington, and the participation by financial institutions in arrangements for the sharing of such facilities, facilitates the delivery of financial services to the citizens of the state of Washington. The term "off-premises electronic facilities" includes, without limitation, automated teller machines, cash-dispensing machines, point-of-sale terminals, and merchant-operated terminals.

**Sec. 58.** RCW 30.49.090 and 1955 c 33 s 30.49.090 are each amended to read as follows:

The owner of shares of a state bank which were voted against a merger to result in a state bank, or against the conversion of a state bank into a national bank, shall be entitled to receive their value in cash, if and when the merger or conversion becomes effective, upon written demand made to the resulting state or national bank at any time within thirty days after the effective date of the

merger or conversion, accompanied by the surrender of the stock certificates. The value of such shares shall be determined, as of the date of the shareholders' meeting approving the merger or conversion, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting state or national bank, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger or conversion becomes effective, the ~~((supervisor of banking))~~ director shall cause an appraisal to be made.

~~((The expenses of appraisal shall be paid by the resulting state bank.))~~ The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the resulting bank shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting bank, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

The resulting state or national bank may fix an amount which it considers to be not more than the fair market value of the shares of a merging or the converting bank at the time of the stockholders' meeting approving the merger or conversion, which it will pay dissenting shareholders of the bank entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the resulting state or national bank.

NEW SECTION. Sec. 59. Unless the context clearly requires otherwise, the definitions in this section apply through this chapter.

- (1) "Merging trust company" means a party to a merger.
- (2) "Merger" includes consolidation.
- (3) "Resulting trust company" means the trust company resulting from a merger.
- (4) "Vote of stockholders" or "vote of classes of stockholders" means only a vote of those entitled to vote under the terms of such shares.

NEW SECTION. Sec. 60. Upon approval by the director, trust companies may be merged to result in a trust company.

NEW SECTION. Sec. 61. (1) The board of directors of each merging trust company shall, by a majority of the entire board, approve a merger agreement that must contain:

- (a) The name of each merging trust company and location of each office;
- (b) With respect to the resulting trust company, (i) the name and location of the principal and other offices; (ii) the name and mailing address of each director to serve until the next annual meeting of the stockholders; (iii) the name and mailing address of each officer; (iv) the amount of capital, the number of shares

and the par value, if any, of each share; and (v) the amendments to its charters and bylaws;

(c) Provisions governing the exchange of shares of the merging trust companies for such consideration as has been agreed to in the merger agreement;

(d) A statement that the agreement is subject to approval by the director and the stockholders of each merging trust company;

(e) Provisions governing the manner of disposing of the shares of the resulting trust company if the shares are to be issued in the transaction and are not taken by dissenting shareholders of merging trust companies; and

(f) Any other provisions the director requires to discharge his or her duties with respect to the merger;

(2) After approval by the board of directors of each merging trust company, the merger agreement shall be submitted to the director for approval, together with certified copies of the authorizing resolutions of each board of directors showing approval by a majority of the entire board. Within sixty days after receipt by the director of the merger agreement and resolutions, the director shall approve or disapprove of the merger agreement, and if no action is taken, the agreement is deemed approved. The director shall approve the agreement if it appears that the:

(a) Resulting trust company meets the requirements of state law as to the formation of a new trust company;

(b) Agreement provides an adequate capital structure including surplus in relation to the deposit liabilities, if any, of the resulting trust company and its other activities which are to continue or are to be undertaken;

(c) Agreement is fair; and

(d) Merger is not contrary to the public interest.

If the director disapproves an agreement, he or she shall state his or her objections and give an opportunity to the merging trust company to amend the merger agreement to obviate such objections.

**NEW SECTION. Sec. 62.** (1) To be effective, a merger that is to result in a trust company must be approved by the stockholders of each merging trust company by a vote of two-thirds of the outstanding voting stock of each class at a meeting called to consider such action. This vote shall constitute the adoption of the charter and bylaws of the resulting trust company, including the amendments in the merger agreement.

(2) Unless waived in writing, notice of the meeting of stockholders shall be given by publication in a newspaper of general circulation in the place where the principal office of each merging trust company is located, at least once each week for four successive weeks, and by mail, at least fifteen days before the date of the meeting, to each stockholder of record of each merging trust company at the address on the books of the stockholder's trust company. No notice of publication need be given if written waivers are received from the holders of two-thirds of the outstanding shares of each class of stock. The notice shall state

that dissenting stockholders will be entitled to payment of the value of only those shares which are voted against approval of the plan.

**NEW SECTION. Sec. 63.** (1) A merger that is to result in a trust company shall, unless a later date is specified in the agreement, become effective after the filing with and upon the approval of the director of the executed agreement together with copies of the resolutions of the stockholders of each merging trust company approving it, certified by the trust company's president or a vice-president and a secretary. The charters of the merging trust companies, other than the resulting trust company, shall immediately after that automatically terminate.

(2) The director shall immediately after that issue to the resulting trust company a certificate of merger specifying the name of each merging trust company and the name of the resulting trust company. The certificate shall be conclusive evidence of the merger and of the correctness of all proceedings regarding the merger in all courts and places, and may be recorded in any office for the recording of deeds to evidence the new name in which the property of the merging trust companies is held.

**NEW SECTION. Sec. 64.** (1) A resulting trust company shall be the same business and corporate entity as each merging trust company with all property, rights, powers, and duties of each merging trust company, except as affected by state law and by the charter and bylaws of the resulting trust company. A resulting trust company shall have the right to use the name of any merging trust company whenever it can do any act under such name more conveniently.

(2) Any reference to a merging trust company in any writing, whether executed or taking effect before or after the merger, is a reference to the resulting trust company if not inconsistent with the other provisions of that writing.

**NEW SECTION. Sec. 65.** (1) The owner of shares of a trust company that were voted against a merger to result in a trust company shall be entitled to receive their value in cash, if and when the merger becomes effective, upon written demand made to the resulting trust company at any time within thirty days after the effective date of the merger, accompanied by the surrender of the stock certificates. The value of the shares shall be determined, as of the date of the stockholders' meeting approving the merger, by three appraisers, one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the resulting trust company, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If the appraisal is not completed within ninety days after the merger becomes effective, the director shall cause an appraisal to be made. The expenses of appraisal shall be paid by the resulting trust company.

(2) The dissenting shareholders shall bear, on a pro rata basis based on number of dissenting shares owned, the cost of their appraisal and one-half of



the cost of a third appraisal, and the resulting trust company shall bear the cost of its appraisal and one-half of the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the resulting trust company, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on number of dissenting shares owned.

(3) The resulting trust company may fix an amount which it considers to be not more than the fair market value of the shares of a merging trust company at the time of the stockholders' meeting approving the merger, that it will pay dissenting shareholders of the trust company entitled to payment in cash. The amount due under an accepted offer or under the appraisal shall constitute a debt of the resulting trust company.

**NEW SECTION.** **Sec. 66.** Without approval by the director, no asset shall be carried on the books of the resulting trust company at a valuation higher than that on the books of the merging trust company at the time of its last examination by a state trust examiner before the effective date of the merger or conversion.

**NEW SECTION.** **Sec. 67.** Sections 59 through 66 of this act shall constitute a new chapter in Title 30 RCW.

**Sec. 68.** RCW 31.12.005 and 1984 c 31 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Board" means the board of directors of a credit union.
- (2) "Branch" means any office, other than the principal place of business, maintained by a credit union, alone or together with other credit unions, for the purpose of (~~providing services directly~~) accepting deposits or making loans to its members. "Branch" does not include a facility that is limited to an electronic funds transferring machine (~~that can be operated without the assistance of an employee of a credit union~~) or a similar service facility that does not involve the approval of loans.
- (3) "Credit union" means a credit union organized and operating under this chapter.
- (4) "Employees" means the principal operating officer and other operating personnel of a credit union.
- (5) "Federal credit union" means a credit union organized and operating under the laws of the United States.
- (6) "Officers" means the officers of the board of a credit union who are elected under RCW 31.12.265.
- (7) "Shares" and "deposits" are synonymous and interchangeable. Shares and deposits of a credit union shall be subject to such terms and conditions as established by the board of the credit union.

(8) (~~"Supervisor" means the supervisor of savings and loan associations appointed under RCW 43.19.100, or the duly authorized agent of the supervisor of savings and loan associations~~) "Director" means the director of financial institutions.

(9) "Supervisory committee" means a committee having the powers and duties set forth in RCW 31.12.326 through (~~31.12.355~~) 31.12.345. Supervisory committees are the statutory successors of auditing committees.

**Sec. 69.** RCW 31.12.015 and 1984 c 31 s 3 are each amended to read as follows:

A credit union is a cooperative society organized as a corporation for the purposes of promoting thrift among its members and creating a source of credit for them at fair and reasonable rates of interest. The (~~supervisor~~) director is the state's credit union regulatory authority whose purpose is to protect the members' financial interests, the integrity of credit unions as cooperative institutions, and the interests of the general public, and to ensure that state-chartered credit unions remain viable and competitive in this state.

**Sec. 70.** RCW 31.12.025 and 1984 c 31 s 4 are each amended to read as follows:

(1) A credit union shall include in its name the words "credit union."

(2) No person, partnership, association, corporation, or other organization may transact business or engage in any other activity under a name or title containing the words "credit union" unless it is:

(a) A credit union;

(b) An organization comprised of corporations organized under (~~this chapter or under~~) state or federal credit union laws;

(c) A sole proprietorship, partnership, or corporation that is primarily in the business of managing one or more credit unions; or

(d) An organization specifically authorized under the laws of this state or under federal law to use the words "credit union" in its name.

**Sec. 71.** RCW 31.12.055 and 1984 c 31 s 7 are each amended to read as follows:

(1) Persons applying for the organization of a credit union shall execute articles of incorporation stating:

(a) The initial name of the proposed credit union and its location;

(b) That the duration of the credit union is perpetual;

(c) That the purpose of the credit union is to engage in the business of a credit union and any other lawful activities permitted to a credit union by applicable laws and rules;

(d) The number of its directors, which shall not be less than five nor greater than fifteen, and the names, occupations, and addresses of the persons who are to serve as the initial directors;

(e) The names, occupations, and addresses of the subscribers to the articles of incorporation, and a statement of the number of shares which each has agreed to take; ~~((and))~~

(f) The initial par value, if any, of the shares of the credit union;

(g) Any provision the applicants elect to so set forth which is permitted by RCW 23B.17.030; and

(h) Any other provision the applicants elect to so set forth which is not inconsistent with this chapter.

(2) Applicants shall submit the articles of incorporation in triplicate to the ~~((supervisor))~~ director.

**Sec. 72.** RCW 31.12.065 and 1984 c 31 s 8 are each amended to read as follows:

(1) Persons applying for the organization of a credit union shall adopt bylaws that are consistent with this chapter and that prescribe the manner in which the business of the credit union shall be conducted. The bylaws shall include:

(a) The name of the credit union;

(b) The purposes of the credit union;

(c) The qualifications for membership in the credit union, including the minimum number of shares, if any, required for membership status, and the standards and procedures for expelling a member who has failed to maintain the minimum number of shares;

(d) The number of directors and supervisory committee members, and the length of terms they serve;

(e) The frequency of regular meetings of the board and the supervisory committee, and the manner in which members of the board or supervisory committee are to be notified of meetings;

(f) The powers and duties of the officers elected by the board;

(g) The timing of the annual meeting and the manner in which members are to be notified of membership meetings, including special membership meetings;

(h) The number of members constituting a quorum at a membership meeting; and

(i) Other matters considered appropriate by the applicants to be included in the bylaws.

(2) Applicants shall submit the bylaws ~~((in duplicate))~~ to the ~~((supervisor))~~ director, if requested.

**Sec. 73.** RCW 31.12.115 and 1984 c 31 s 13 are each amended to read as follows:

~~(((1) Subject to the approval of the supervisor under subsection (2) of this section))~~ Except to the extent approval of the director may be required by rule, the bylaws of a credit union may be amended by the board of directors at any regular meeting or at a special meeting called for that purpose. An amendment of the bylaws requires the affirmative vote of two-thirds of the total members of

the board. At least seven days before a meeting at which an amendment to the bylaws is to be voted upon, a copy of the proposed amendment, together with a written notice of the meeting as provided in the bylaws, shall be served upon each member of the board either personally or by mail to the director's last known post office address.

~~((2) An amendment to the bylaws of a credit union shall not become operative until it has been approved by the supervisor. The supervisor shall approve or disapprove an amendment within thirty days of receipt.))~~

**Sec. 74.** RCW 31.12.125 and 1990 c 33 s 564 are each amended to read as follows:

A credit union may:

(1) Issue shares to and receive deposits from its members as provided in this chapter ~~((and the bylaws of the credit union));~~

(2) Make loans to its members as provided in this chapter ~~((and the bylaws of the credit union));~~

(3) Pay dividends or interest to its members;

(4) Impose reasonable charges for the services it provides to its members;

(5) Impose financing charges and reasonable late charges in the event of default on loans ~~((in accordance with the bylaws of the credit union)),~~ subject to applicable law, and recover reasonable costs and expenses, including reasonable attorneys' fees incurred both before and after judgment, incurred in the collection of sums due it if provided for in the note or agreement signed by the borrower;

(6) Acquire, lease, hold, assign, pledge, hypothecate, sell, or otherwise dispose of a possessory interest in personal property and, ~~((with the prior written permission of the supervisor))~~ subject to RCW 31.12.435, in real property, so long as the property is necessary or incidental to the operation of the credit union ~~((The written permission of the supervisor is not required for the acquisition and disposition of property through the collection of loans secured by the property));~~

(7) Deposit and invest funds in excess of the amount approved for loans to members as provided in this chapter;

(8) Borrow money, up to a maximum of fifty percent of its paid-in and unimpaired capital and surplus;

(9) Discount or sell any of its assets, or purchase any or all of the assets of another credit union. A credit union may not discount or sell more than ten percent of its assets without the prior written approval of the ~~((supervisor))~~ director;

(10) Accept deposits of deferred compensation of its members under the terms and conditions of RCW 28A.400.240 and 41.04.250(2);

(11) Act as fiscal agent for and receive payments on shares and deposits from the federal government or this state, and any agency or political subdivision thereof;

(12) Engage in activities and programs as requested by the federal government, this state, and any political subdivision thereof, when the activities or programs are not inconsistent with this chapter;

(13) Hold membership in other credit unions organized under this chapter or other laws and in associations controlled by or fostering the interests of credit unions, including a central liquidity facility organized under state or federal law; and

(14) Exercise such incidental powers as are necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

**Sec. 75.** RCW 31.12.136 and 1987 c 338 s 1 are each amended to read as follows:

(1) Notwithstanding any other provision of law, a credit union may exercise any of the powers ~~((or authority))~~ and authorities conferred as of ~~((July 26, 1987))~~ December 31, 1993, upon a federal credit union doing business in this state.

(2) Notwithstanding any other provision of law, in addition to the powers and authorities conferred under subsection (1) of this section, the ~~((supervisor))~~ director may by rule authorize credit unions to exercise any of the powers and authorities conferred at the time of the adoption of the rule upon a federal credit union doing business in this state if the ~~((supervisor))~~ director finds that the exercise of the power and authority serves the convenience and advantage of depositors and borrowers of state-chartered credit unions, and maintains the fairness of competition and parity between state-chartered credit unions and federal-chartered credit unions.

(3) ~~((Before exercising a power under subsection (1) or (2) of this section, the board of a credit union shall adopt a resolution identifying and formally adopting that power))~~ The restrictions, limitations, and requirements applicable to specific powers or authorities of federal credit unions shall apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted credit unions solely under this section. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

**Sec. 76.** RCW 31.12.155 and 1984 c 31 s 17 are each amended to read as follows:

~~((Shares may be issued in the name of a minor and the shares may, in the discretion of the board, be withdrawn by the minor or by the minor's parent or guardian.))~~ A minor under age eighteen does not have the right to vote as a member.

**Sec. 77.** RCW 31.12.195 and 1987 c 338 s 3 are each amended to read as follows:

(1) A special meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand, whichever is less, of the voting members of a credit union. A request for a special meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. If the special meeting is being called for the removal of a director the notice shall state the name of the director whose removal is sought.

(2) Upon receipt of a request for a special meeting, the secretary of the credit union shall designate the time and place at which the special meeting will be held. The designated place of the meeting shall be a reasonable location within the county in which the principal office of the credit union is located. The designated time of the meeting shall be no sooner than twenty nor later than thirty days after the request is received by the secretary. The secretary shall within ten days of receipt of the request give notice of the meeting, including the purpose for which the meeting is called, as provided in the bylaws. A wilful violation of this section constitutes a violation of this chapter and constitutes grounds sufficient for the suspension and removal of the secretary under RCW 31.12.575.

(3) Except as provided in this subsection, the chairman or president of the board shall preside over special meetings. If the purpose of the special meeting includes the proposed removal of the chairman or president from the board, the next highest ranking officer of the board whose removal is not sought shall preside over the special meeting. If the removal of all of the officers of the board is sought, the chairman of the supervisory committee shall preside over the special meeting. After every special meeting, the chairman of the supervisory committee shall report to the ~~((supervisor))~~ director the results of the special meeting and whether the special meeting was conducted in a fair manner in accordance with the bylaws of the credit union and with customary rules of parliamentary procedure.

~~((4) Voting by mail ballot on issues to be presented at a special meeting is prohibited except with regard to mergers under RCW 31.12.695. Voting by mail ballot on a merger under RCW 31.12.695 may be authorized by the board in accordance with rules established by the supervisor.))~~

**Sec. 78.** RCW 31.12.235 and 1984 c 31 s 25 are each amended to read as follows:

(1) A director shall be a member of the credit union. If a director ceases to be a member of the credit union, the director shall no longer serve as director.

(2) Unless reasonably excused by the board, a director shall no longer serve as director if the director in any twelve-month period is absent from more than thirty-three percent of the regular board meetings required by this chapter.

(3) The remainder of the term of a director's office that becomes vacant under subsection (1) or (2) of this section shall be served by an interim director appointed by the board.

**Sec. 79.** RCW 31.12.255 and 1984 c 31 s 27 are each amended to read as follows:

The board shall have the general direction of the affairs of the credit union. The board shall meet as often as necessary, but not less than once each month. The board shall:

(1) Act upon applications for membership with the credit union(~~(—The board may authorize a membership officer to approve applications under conditions prescribed by the board)~~);

(2) Expel members for cause as provided in this chapter;

(3) Borrow and invest money on behalf of the credit union as provided by this chapter (~~(or authorize an investment committee to invest money)~~);

(4) Determine the maximum amount of shares and deposits that a member may hold in the credit union;

(5) Declare dividends on shares and set the rate of interest on deposits (~~(in the manner and form provided in the bylaws)~~);

(6) Determine the amount which may be loaned to a member and the finance charges, including interest, to be charged on the loans;

(7) Prescribe the conditions and terms under which a loan officer or credit committee may approve loans;

(8) Set the minimum number of shares, if any, required for active member status;

(9) Fill vacancies on all committees except the supervisory committee;

(10) Set the par value of shares, if any, of the credit union;

(11) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;

(12) Approve the charge-off of credit union losses; or

(13) Perform such other acts as are required by this chapter.

The board may authorize a committee, officer, or employee to take the actions referenced in subsections (1), (3), (5), and (6) of this section.

**Sec. 80.** RCW 31.12.265 and 1987 c 338 s 4 are each amended to read as follows:

The board at its first meeting after the annual meeting of the members shall elect a chairman or president, and one or more vice chairmen or vice presidents, a secretary, a treasurer, and other officers that may be necessary for transacting the business of the board of the credit union. The officers of the board of the credit union shall hold office until their successors are elected and qualified, unless sooner removed as provided by this chapter. The offices of secretary and treasurer may be held by the same person. All officers of the board of a credit union(~~(, with the exception of the treasurer,)~~) shall be elected members of the board. However, the treasurer and the secretary need not be (~~(and)~~) members of the board. The board may designate such employees, including a principal operating officer who shall not share the title chosen for the

chairman or president of the board and who need not be a member of the board, as are necessary for the operation of the credit union.

**Sec. 81.** RCW 31.12.315 and 1984 c 31 s 33 are each amended to read as follows:

A credit committee or loan officer(~~(, as the bylaws may provide,)~~) shall act upon all applications for loans and lines of credit under the terms and conditions prescribed by the board. ~~((All applications for loans or lines of credit shall be in writing and shall state the purpose for which the loan or line of credit is desired and the security, if any, offered. Approval of loans and lines of credit shall be in writing.))~~

**Sec. 82.** RCW 31.12.335 and 1984 c 31 s 35 are each amended to read as follows:

The supervisory committee of a credit union shall:

- (1) Meet as often as necessary and at least quarterly;
- (2) Keep fully informed as to the financial condition of the credit union;
- (3) Cause to be made ~~((semiannually))~~ annually a complete examination of the cash, the credit union accounts, including income and expense, and the members' share accounts in accordance with rules adopted by the ~~((supervisor))~~ director; and
- (4) Report its findings and recommendations to the board and make an annual report to the members at the annual meeting.

**Sec. 83.** RCW 31.12.385 and 1984 c 31 s 40 are each amended to read as follows:

Shares purchased and deposits made in a credit union by an individual are governed by chapter 30.22 RCW. ~~((An individual))~~ A member may purchase shares and make deposits in a credit union in an amount that does not exceed ~~((five hundred dollars or twenty percent of the total shares of the credit union, whichever is greater. A fraternal organization, partnership, or corporation that is a member may purchase shares and make deposits in an amount that does not exceed twenty percent of the assets of the credit union, unless the supervisor authorizes a greater amount))~~ such amounts as may be established by the board from time to time. A credit union may require from a member ninety days notice of the intention to withdraw shares or deposits. The notice requirement may be extended with the written consent of the ~~((supervisor))~~ director.

**Sec. 84.** RCW 31.12.406 and 1987 c 338 s 6 are each amended to read as follows:

- (1) A credit union may make loans to its members with the approval of a credit committee or loan officer, subject to the loans to one borrower limits provided for in section 92 of this act. ~~((A credit union shall not make loans to a fraternal organization, partnership, or corporation in excess of the total shares of the organization, partnership, or corporation without the written consent of the supervisor.))~~ All loans shall be documented in writing. Loans may be made for



(a) consumer, family, or household purposes, referred to in this section as "consumer loans", or (b) business, investment, commercial, or agricultural purposes which are in compliance with rules adopted by the director.

(2) A credit union may make to ~~((individual))~~ members:

(a) ~~((Personal))~~ Loans secured by the note of the member or other adequate security, including, but not limited to, equity interests in real estate, automobiles, boats, motorhomes, and travel trailers~~((The aggregate of personal loans to one member shall be limited to five thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, unless the supervisor approves in writing a greater loan amount))~~;

(b) Student loans under student loan programs of this state or the United States;

(c) Loans for the acquisition of a modular home or mobile home as defined by RCW 82.50.010, secured by a ~~((first))~~ security interest in that modular home or mobile home, owned by the member. A loan under this subsection and any prior indebtedness secured by the home shall not exceed eighty-five percent of the purchase price or of the appraised value of the modular home or mobile home, whichever is less;

(d) Residential real estate loans under RCW 31.12.415;

(e) Loans to its members under an act of congress known as the "FHA Title I, National Housing Act of 1934," June 27, 1934 (12 U.S.C. Sec. 1701 to 1750, inc.); and

(f) Loans to credit union members in participation with other credit unions, credit union organizations, or financial organizations. The credit union which originates a loan under this subsection shall retain an interest of at least ten percent of the face amount of the loan unless the loan is a real estate loan in which case there is no retention requirement.

(3) ~~((Personal))~~ Consumer loans shall be given preference, and in the event there are not sufficient funds available to satisfy all approved loan applicants, further preference shall be given to small loans.

(4) The director may by rule establish guidelines addressing the issue of unsafe and unsound concentrations of credit and such other related safety and soundness issues.

Sec. 85. RCW 31.12.415 and 1984 c 31 s 43 are each amended to read as follows:

~~((1))~~ For purposes of this section a residential real estate loan is a loan secured by a ~~((first))~~ mortgage, deed of trust, real estate contract, or other ~~((first))~~ lien on the borrower's interest in a one-to-four family dwelling, including an individual cooperative unit, or a loan made for the construction of the dwelling. The dwelling shall be adequately insured by hazard insurance ~~((in an amount at least as great as the credit union's interest in the dwelling or the value of the dwelling, whichever is less. A residential real estate loan shall not exceed~~

~~ten thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, without the approval of the supervisor.~~

~~(2) Except for loans made with the intent of sale on the secondary market, the total amount of loans held by a credit union under this section shall not exceed:~~

~~(a) Ten percent of its total assets if its total assets are less than one hundred thousand dollars;~~

~~(b) Twenty percent of its total assets if its total assets are greater than one hundred thousand dollars but less than one million dollars; or~~

~~(c) Thirty percent of its total assets if its total assets are greater than one million dollars)).~~

Sec. 86. RCW 31.12.425 and 1987 c 338 s 7 are each amended to read as follows:

(1) The capital or surplus funds in excess of the amount for which loans are approved may be deposited or invested in any of the following ways, so long as the investment has not been in default as to principal or interest within five years prior to the date of purchase:

(a) Accounts in banks or trust companies, including national banks located in this state, or other states, the accounts of which are insured by the federal deposit insurance corporation. The deposits made by a credit union under this subsection may exceed the insurance limits established by the federal deposit insurance corporation;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under Section 9101 of Title 31 U.S.C., or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Shares, share certificates, or share deposits of other credit unions or savings and loan associations organized or authorized to do business under the laws of this state, other states, or the United States, the accounts of which are insured or guaranteed by the federal savings and loan insurance corporation, the national credit union administration, the Washington credit union share guaranty association, or another insurer approved by the ~~((supervisor))~~ director. The deposits made by a credit union under this subsection may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the deposits are made;

(f) Common trust funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to two percent of a corporation owned by the Washington credit union league;

(h) Shares, stocks, loans, or other obligations of an organization of which the membership or ownership is confined primarily to credit unions and the purpose of which is to strengthen, advance, or provide services to the credit union industry. Other than investment in an organization that is wholly owned by the credit union and whose activities are limited exclusively to those determined by the director to be authorized by RCW 31.12.125 (2) through (9) and (12) through (14), an investment under subsection (1)(h) of this section shall be limited to one percent of the total paid-in and unimpaired capital and surplus of the credit union, but a credit union may, in addition to the investment, lend to the organization an amount not exceeding an additional one percent of the total paid-in and unimpaired capital and surplus of the credit union;

(i) Loans to other credit unions organized or authorized to do business under the laws of this state, other states, or the United States. The aggregate of loans issued under this subsection shall be limited to twenty-five percent of the paid-in and unimpaired capital of the lending credit union; or

(j) Other investments authorized in accordance with rules adopted by the ~~((supervisor))~~ director consistent with this chapter.

(2) The board may appoint an investment committee to make and manage the investments under this section. An investment committee shall remain subject to the supervision of the board.

**Sec. 87.** RCW 31.12.435 and 1984 c 31 s 45 are each amended to read as follows:

(1) Unless otherwise approved by the director, a credit union may invest a reasonable amount of its funds in real property or leasehold interests for its own use in conducting business ((#)) subject to the following limitations:

(a) The aggregate of its regular reserve and its undivided earnings equals five percent of the total of its ~~((share))~~ deposit accounts;

(b) The board approves the investment in real property for its own use in conducting business by a two-thirds majority vote of the total number of directors; and

(c) The total investment in the property does not exceed seven and one-half percent of the aggregate of its ~~((share and))~~ deposit accounts~~((+and~~

~~((d) The supervisor approves of the investment in writing.~~

~~((2) The supervisor may waive the restrictions of this section. The restrictions of this section do not affect investments existing as of July 1, 1984)).~~

**Sec. 88.** RCW 31.12.526 and 1984 c 31 s 54 are each amended to read as follows:

(1) A credit union organized and qualified as a credit union in another state which has not had its authority to operate in another state suspended or revoked may operate as a credit union under this chapter if:

(a) The ~~((supervisor))~~ director has approved an application to do business in this state;

(b) A credit union organized under the laws of this state is permitted to do business in the state in which the credit union is organized;

(c) The interest rate charged by the credit union on loans made to members residing in this state does not exceed the maximum interest rate permitted in the state in which the credit union is organized, or exceed the maximum interest rate which a credit union organized in this state is permitted to charge on similar loans, whichever is lower;

(d) The credit union has secured surety bond and fidelity bond coverages satisfactory to the ~~((supervisor))~~ director;

(e) The credit union has secured for the share accounts of its members insurance or other surety satisfactory to the ~~((supervisor))~~ director;

(f) The credit union submits to the ~~((supervisor))~~ director an annual audit or examination report of its most recently completed fiscal year; and

(g) The credit union complies with all other applicable provisions of this chapter and rules adopted by the ~~((supervisor))~~ director.

(2) The ~~((supervisor))~~ director shall disapprove an application filed under this section or, upon reasonable notice and an opportunity for hearing, suspend or revoke the approval of an application, if the ~~((supervisor))~~ director finds that the standards of organization, operation, and regulation of the credit union do not reasonably conform with the standards under this chapter or that at least fifty percent of the members of the credit union are, or are reasonably expected to be, residents of this state. In considering the standards of organization, operation, and regulation of the credit union, the ~~((supervisor))~~ director may consider the laws and regulations of the state in which the credit union is organized. A decision under this subsection may be appealed under chapter 34.05 RCW.

(3) In implementing this section, the ~~((supervisor))~~ director may cooperate with the administrators of the credit union laws in other states and may share with the administrators the information received in the administration of this chapter.

(4) The ~~((supervisor))~~ director shall adopt rules for the periodic examination and investigation of the affairs of an out-of-state credit union operating in this state. The costs of examination and supervision shall be fully borne by the out-of-state credit union.

**Sec. 89.** RCW 31.12.555 and 1984 c 31 s 57 are each amended to read as follows:

The ~~((supervisor))~~ director may ~~((investigate))~~ examine the affairs of a credit union service organization in which a credit union has an interest. A person or an entity that is not a credit union that has an interest in a credit union service organization in which a credit union has an interest is deemed to have consented to the ~~((investigation))~~ examination. For the purposes of this section and RCW 31.12.565, a sole proprietorship, partnership, or corporation that is primarily in

the business of managing one or more credit unions shall be considered to be a credit union service organization.

**Sec. 90.** RCW 31.12.565 and 1984 c 31 s 58 are each amended to read as follows:

(1) Examination reports and information obtained by the ~~((supervisor's))~~ director's staff in conducting examinations of credit unions and credit union service organizations are confidential and privileged information and not subject to public disclosure under chapter 42.17 RCW.

(2) Notwithstanding subsection (1) of this section, the ~~((supervisor))~~ director may furnish examination reports prepared by the ~~((supervisor's))~~ director's office to:

- (a) Federal agencies empowered to examine state-chartered credit unions;
- (b) Officials empowered to investigate criminal charges. The ~~((supervisor))~~ director may furnish only that part of the report which is necessary and pertinent to the investigation, and only after notifying the affected credit union and members of the credit union who are named in that part of the examination report that the report is being furnished to the officials, unless the officials requesting the report obtain a waiver of the notice requirement for good cause from a court of competent jurisdiction;
- (c) The examined credit union, solely for its confidential use;
- (d) The attorney general in his or her role as legal advisor to the ~~((supervisor))~~ director;
- (e) Prospective merger partners or liquidating agents of a distressed credit union;
- (f) Credit union administrators in other states regarding an out-of-state chartered credit union doing business in this state under this chapter, or regarding a credit union chartered under this chapter doing business in another state;
- (g) ~~((Accounting firms under contract with the credit union))~~ A person or organization officially connected with the credit union as officer, director, supervisory committee member, attorney, auditor, accountant, independent attorney, independent auditor, or independent accountant;
- (h) Companies that have bonded the credit union to the extent that information is relevant to the renewal of the bond coverage or to a claim under the bond coverage; ~~((or))~~
- (i) Companies, associations, or agencies insuring or guaranteeing the shares of or deposits in the credit union; or
- (j) Other persons or organizations as the director may determine to protect the public interest and confidence.

(3) Examination reports furnished under subsection (2) of this section remain the property of the ~~((supervisor's))~~ director's office and no person, agency, or authority to whom reports are furnished or any officer, director, or employee thereof may disclose or make public the reports or information contained in the reports except in published statistical information that does not disclose the

affairs of an individual or corporation, except that nothing prevents the use in a criminal prosecution of reports furnished under subsection (2)(b) of this section.

(4) In a civil action in which the reports are sought to be discovered or used as evidence, a party upon notice to the ((supervisor)) director, may petition the court for an in-camera review of the reports. The court may permit discovery and introduction of only those portions of the report which are relevant and otherwise unobtainable by the requesting party. This subsection does not apply to an action brought or defended by the ((supervisor)) director.

(5) This section does not apply to investigation reports prepared by the ((supervisor)) director and the ((supervisor's)) director's staff concerning an application for a new credit union or a notice of intent to establish a branch of a credit union, except that the ((supervisor)) director may adopt rules making confidential portions of the reports if in the ((supervisor's)) director's opinion the public disclosure of that portion of the report would impair the ability to obtain information the ((supervisor)) director considers necessary to fully evaluate the application.

(6) Any person who knowingly violates a provision of this section is guilty of a gross misdemeanor.

**Sec. 91.** RCW 31.12.695 and 1987 c 338 s 8 are each amended to read as follows:

(1) For purposes of this section the merging credit union is the credit union whose charter ceases to exist upon merging with the continuing credit union. The continuing credit union is the credit union whose charter continues upon merging with the merging credit union.

(2) A credit union may be merged with another credit union with the approval of the ((supervisor)) director and in accordance with requirements the ((supervisor)) director may prescribe. The merger shall be approved by two-thirds majority vote of the board of each credit union and two-thirds majority vote of those members of the merging credit union voting on the merger at a special membership meeting called by the merging credit union board or by mail ballot (~~as provided in RCW 31.12.195(4)~~). The requirement of approval by the members of the merging credit union may be waived if in the ((supervisor's)) director's opinion the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the merging credit union that are known or reasonably should be known are assumed by the continuing credit union. The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in the county in which the principal place of business of the merging credit union is located. The notice of merger shall inform creditors of the merging credit union how to make a claim on the continuing credit union and

that if a claim is not made upon the continuing credit union within thirty days of the last date of publication creditors' claims that are not known by the continuing credit union may be barred. Unless a claim is filed as requested by the notice, or unless the debt or obligation is known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged. Upon merger the charter of the merging credit union ceases to exist.

**NEW SECTION. Sec. 92.** A new section is added to chapter 31.12 RCW to read as follows:

(1) No loan may be made to any member if such loan would cause that member to be indebted to the credit union upon loans made to the member in an aggregated amount exceeding ten thousand dollars or two and one-half percent of the assets of the credit union, whichever is greater, without the approval of the director.

(2) The director by rule may establish limits on loans for business, investment, commercial, or agricultural purposes to one member.

**Sec. 93.** RCW 32.04.030 and 1985 c 56 s 2 are each amended to read as follows:

A savings bank ~~((with))~~ may not, without the written approval of the ~~((supervisor, may))~~ director, establish and operate branches in any place within the state.

A savings bank headquartered in this state desiring to establish a branch shall file a written application ~~((therefor))~~ with the ~~((supervisor))~~ director, who shall approve or disapprove the application.

The ~~((supervisor's))~~ director's approval shall be conditioned on a finding that the resources in the market area of the proposed location offer a reasonable promise of adequate support for the proposed branch and that the proposed branch is not being formed for other than the legitimate purposes under this title. A branch shall not be established or permitted if the capital of the savings bank, including paid-in surplus, guaranty fund, and undivided profits, is less than the aggregate paid-in capital which would be required by law as a prerequisite to the establishment and operation of an equal number of branches in like locations by a commercial bank. In making such findings, the director may rely on an application in the form filed with the federal deposit insurance corporation pursuant to 12 U.S.C. Sec. 1828(d). If the application for a branch is not approved, the savings bank shall have the right to appeal in the same manner and within the same time as provided by RCW 32.08.050 and 32.08.060. The savings bank when delivering the application to the ~~((supervisor))~~ director shall transmit to the ~~((supervisor))~~ director a check in an amount established by rule to cover the expense of the investigation. A savings bank headquartered in this state shall not move its headquarters or any branch more than two miles from its existing location without prior approval of the ~~((supervisor))~~ director. ~~((Not less than twenty days prior to))~~ On or before the date on which it opens any office

at which it will transact business in any state, a ~~((mutual))~~ savings bank shall give written notice to the ~~((supervisor))~~ director of the location ~~((and business hours))~~ of this office. No such notice shall become effective until it has been delivered to the ~~((office of the supervisor))~~ director.

The board of trustees of a savings bank, after notice to the ~~((supervisor))~~ director, may discontinue the operation of a branch. The savings bank shall keep the ~~((supervisor))~~ director informed in the matter and shall notify the ~~((supervisor))~~ director of the date operation of the branch is discontinued.

(1) A savings bank that is headquartered in this state and is operating branches in another state may provide copies of state examination reports and reports of condition of the savings bank to the regulator having oversight responsibility with regard to its operations in that state, including the regulator of savings associations in the event such a savings bank is transacting savings and loan business pursuant to RCW 32.08.142 in that state.

(2) No savings bank headquartered in another state may establish and operate branches as a savings bank in any place within the state unless:

(a) The appropriate state superintendent or equivalent regulator of the savings bank under the laws of the state in which the savings bank is incorporated shall have agreed to supply the director with such examination reports and reports of condition as the director shall deem sufficient to allow the director to ascertain on a current basis the financial condition of the savings bank;

(b) The savings bank shall have filed with the director (i) a duly executed instrument in writing, by its terms of indefinite duration and irrevocable, appointing the director and his or her successors its true and lawful attorney, upon whom all process in any action or proceeding against it in a cause of action arising out of business transacted by such savings bank in this state, may be served with the same force and effect as if it were a domestic corporation and had been lawfully served with process within the state, and (ii) a written certificate of designation, which may be changed from time to time by the filing of a new certificate of designation, specifying the name and address of the officer, agent, or other person to whom such process shall be forwarded by the director; and

(c) The savings bank shall have supplied the director with such information as he or she shall require by rule, not to exceed the information on which the director may rely in approving a branch application pursuant to this section by a savings bank headquartered in this state.

A savings bank headquartered in another state may not establish and operate branches as a foreign savings association in any place within the state except upon compliance with chapter 33.32 RCW.

**Sec. 94.** RCW 32.04.060 and 1981 c 86 s 1 are each amended to read as follows:

No savings bank shall in the course of any fiscal year (which fiscal year shall be deemed to expire on the last day of December in each year) pay or



become liable to pay either directly or indirectly for expenses of management and operation more than three percent of its average assets during such year: PROVIDED, That a mutual savings bank with less than five hundred million dollars in deposits may pay or become liable to pay either directly or indirectly for expenses of management and operation up to six percent of its average assets during the year. However, this section does not apply to stock savings banks.

Sec. 95. RCW 32.04.080 and 1955 c 80 s 2 are each amended to read as follows:

A mutual savings bank may provide for pensions for its disabled or superannuated employees and may pay a part or all of the cost of providing such pensions in accordance with a plan adopted by its board of trustees (~~and approved in writing by the supervisor of banking. Whenever the trustees of the bank shall have formulated and adopted a plan providing for such pensions it shall, within ten days thereafter, transmit the same to the supervisor of banking. The supervisor of banking shall thereupon examine such plan and investigate the feasibility and practicability thereof and within thirty days of the receipt thereof by him notify the bank in writing of his approval or rejection of the same. After the approval of the supervisor the mutual savings bank shall be authorized and empowered to put such plan into effect~~). The board of trustees of a savings bank may set aside from current earnings reserves in such amounts as the board shall deem wise to provide for the payment of future pensions.

Sec. 96. RCW 32.04.085 and 1971 ex.s. c 222 s 1 are each amended to read as follows:

Any pension payment or retirement benefits payable by a mutual savings bank to a former officer or employee, or to a person or persons entitled thereto by virtue of service performed by such officer or employee, in the discretion of a majority of all the trustees of such bank, may be supplemented from time to time. (~~Whenever the trustees of the bank shall have formulated and adopted a plan providing for such supplemental payments, within ten days thereafter said trustees shall transmit the same to the supervisor of banking. The supervisor of banking shall thereupon examine such plan and investigate the feasibility and practicability thereof and, within thirty days of the receipt thereof by him, notify the bank in writing of his approval or rejection of the same. After the approval of the supervisor the mutual savings bank shall be authorized and empowered to put such plan into effect.~~) The board of trustees of a savings bank may set aside from current earnings, reserves in such amounts as the board shall deem appropriate to provide for the payments of future supplemental payments.

Sec. 97. RCW 32.08.010 and 1955 c 13 s 32.08.010 are each amended to read as follows:

When authorized by the (~~supervisor~~) director, as hereinafter provided, not less than nine nor more than thirty persons may form a corporation to be known as a "mutual savings bank." Such persons must be citizens of the United States;

at least four-fifths of them must be residents of this state, and at least two-thirds of them must be residents of the county where the bank is to be located and its business transacted. They shall subscribe (~~and acknowledge~~) an incorporation certificate in triplicate which shall specifically state:

(1) The name by which the savings bank is to be known, which name shall include the words "mutual savings bank";

(2) The place where the bank is to be located, and its business transacted, naming the city or town and county;

(3) The name, occupation, residence, and post office address of each incorporator;

(4) The sums which each incorporator will contribute in cash to the initial guaranty fund, and to the expense fund respectively, as provided in RCW 32.08.090 and 32.08.100;

(5) Any provision the incorporators elect to so set forth which is permitted by RCW 23B.17.030;

(6) Any other provision the incorporators elect to so set forth which is not inconsistent with this chapter;

(7) A declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a trustee of the savings bank, and is free from all the disqualifications specified in RCW 32.16.010.

**Sec. 98.** RCW 32.08.142 and 1985 c 56 s 3 are each amended to read as follows:

Notwithstanding any restrictions, limitations, and requirements of law, in addition to all powers, express or implied, that a mutual savings bank has under the laws of this state, a mutual savings bank shall have the powers and authorities of federal mutual savings banks formed under the provisions of 12 U.S.C. Sec. 1464. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federal mutual savings banks shall apply to mutual savings banks exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted mutual savings banks solely under this section.

**NEW SECTION.** **Sec. 99.** A new section is added to chapter 32.08 RCW to read as follows:

A mutual savings bank may exercise the powers and authorities granted to federal mutual savings banks formed under the provisions of 12 U.S.C. Sec. 1464 after July 28, 1985, only if the director finds that the exercise of such powers and authorities:

(1) Serves the convenience and advantage of depositors and borrowers; and

(2) Maintains the fairness of competition and parity between state-chartered savings banks and federal savings banks.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations, and requirements applicable to specific powers or authorities of federal mutual savings banks shall apply to mutual savings banks exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted mutual savings banks solely under this section.

**Sec. 100.** RCW 32.12.050 and 1985 c 56 s 7 are each amended to read as follows:

(1) No savings bank shall by any system of accounting, or any device of bookkeeping, directly or indirectly, enter any of its assets upon its books in the name of any other individual, partnership, unincorporated association, or corporation, or under any title or designation that is not in accordance with the actual facts.

(2) The bonds, notes, mortgages, or other interest bearing obligations purchased or acquired by a savings bank, shall not be entered on its books at more than the actual cost thereof, and shall not thereafter be carried upon its books for a longer period than until the next declaration of dividends, or in any event for more than one year, at a valuation exceeding their present cost as determined by amortization, that is, by deducting from the cost of any such security purchased for a sum in excess of the amount payable thereon at maturity and charging to "profit and loss" a sufficient sum to bring it to par at maturity, or adding to the cost of any such security purchased at less than the amount payable thereon at maturity and crediting to "profit and loss" a sufficient sum to bring it to par at maturity.

(3) No such bank shall enter, or at any time carry on its books, the real estate and the building or buildings thereon used by it as its place of business at a valuation exceeding their actual cost to the bank.

(4) Every such bank shall conform its methods of keeping its books and records to such orders in respect thereof as shall have been made and promulgated by the ~~((supervisor))~~ director. Any officer, agent, or employee of any savings bank who refuses or neglects to obey any such order shall be punished as hereinafter provided.

(5) Real estate acquired by a savings bank, other than that acquired for use as a place of business, may be entered on the books of the bank at the actual cost thereof but shall not be carried beyond the current dividend period at an amount in excess of the amount of the debt in protection of which such real estate was acquired, plus the cost of any improvements thereto.

An appraisal shall be made by a qualified person of every such parcel of real estate within six months from the date of conveyance. If the value at which such real estate is carried on the books is in excess of the value found on appraisal the book value shall, at the end of the dividend period during which

such appraisal was made, be reduced to an amount not in excess of such appraised value.

(6) No such bank shall enter or carry on its books any asset which has been disallowed by the ~~((supervisor))~~ director or the trustees of such bank, ~~((or any debt owing to it which has remained due without prosecution and upon which no interest has been paid for more than one year, or on which a judgment has been recovered which has remained unsatisfied for more than two years,))~~ unless the ~~((supervisor))~~ director upon application by such savings bank has fixed a valuation at which such ~~((debt))~~ asset may be carried ~~((as an asset, or unless such debt is secured by first mortgage upon real estate, in which latter case it may be carried at the actual cash value of such real estate as determined by written appraisal signed by two or more persons appointed by the board of trustees and filed with it))~~ as permitted in subsection (7) of this section.

(7) Notwithstanding the ~~((prohibitions))~~ provisions of this section, ~~((a))~~ no savings bank may maintain its books and records ~~((and may))~~ or enter and carry on its books any asset or liability at any valuation ~~((in accordance with))~~ contrary to any accounting rules promulgated or adopted by the federal deposit insurance corporation ~~((or the financial accounting standards board))~~ or the ~~((supervisor of banking))~~ director or contrary to generally accepted accounting principles.

**Sec. 101.** RCW 32.12.090 and 1983 c 44 s 2 are each amended to read as follows:

(1) Every savings bank shall regulate the rate of interest upon the amounts to the credit of depositors therewith, in such manner that depositors shall receive as nearly as may be all the earnings of the bank after transferring the amount required by RCW 32.08.120 and such further amounts as its trustees may deem it expedient and for the security of the depositors to transfer to the guaranty fund, which to the amount of ten percent of the amount due its depositors the trustees shall gradually accumulate and hold. Such trustees may also deduct from its net earnings, and carry as reserves for losses, or other contingencies, or as undivided profits, such additional sums as they may deem wise.

(2) Every savings bank may classify its depositors according to the character, amount, regularity, or duration of their dealings with the savings bank, and may regulate the interest in such manner that each depositor shall receive the same ratable portion of interest as all others of his or her class.

(3) Unimpaired contributions to the initial guaranty fund and to the expense fund, made by the incorporators or trustees of a savings bank, shall be entitled to have dividends apportioned thereon, which may be credited and paid to such incorporators or trustees.

Whenever the guaranty fund of any savings bank is sufficiently large to permit the return of such contributions, the contributors may receive interest thereon not theretofore credited or paid at the same rate paid to depositors.

(4) A savings bank ~~((shall not:))~~

~~(a) Declare, credit or pay any interest except as authorized by a vote of a majority of the board of trustees duly entered upon its minutes, whereon shall be recorded by ayes and noes the vote of each trustee;~~

~~(b) Pay any interest other than the regular quarterly or semiannual interest, or the interest on savings certificates of deposit, or the extra dividends prescribed elsewhere in this title: PROVIDED, That such bank may pay interest not less often than annually on the anniversary dates of accounts separately classified for this purpose: PROVIDED, FURTHER, That such bank may pay interest monthly at the rate or rates last authorized by a majority vote of the board of trustees duly entered in its minutes whereon shall be recorded by ayes and noes the vote of each trustee;~~

~~(c) Declare, credit or pay interest on any amount to the credit of a depositor for a longer period than the same has been credited: PROVIDED, That deposits made not later than the tenth day of any month (unless the tenth day is not a business day, in which case it may be the next succeeding business day), or withdrawn upon one of the last three business days of the month ending any quarterly or semiannual interest period, may have interest paid upon them for the whole of the period or month when they were so deposited or withdrawn: PROVIDED FURTHER, That if the bylaws so provide, accounts closed between interest periods may be credited with interest at the rate determined by its board of trustees, computing from the last interest period to the date when closed)) may pay interest on deposits at such rates as its board or a committee or officer designated by the board shall from time to time determine.~~

(5) The trustees of any savings banks, other than a stock savings bank (~~converted under chapter 32.32 RCW~~), whose undivided profits and guaranty fund, determined in the manner prescribed in RCW 32.12.070, amount to more than twenty-five percent of the amount due its depositors, shall at least once in three years divide equitably the accumulation beyond such twenty-five percent as an extra dividend to depositors in excess of the regular dividend authorized.

(6) A notice posted conspicuously in a savings bank of a change in the rate of interest shall be equivalent to a personal notice.

**Sec. 102.** RCW 32.16.020 and 1955 c 13 s 32.16.020 are each amended to read as follows:

(1) Each trustee, whether named in the certificate of authorization or elected to fill a vacancy, shall, when such certificate of authorization has been issued, or when notified of such election, take an oath that he or she will, so far as it devolves on him or her, diligently and honestly administer the affairs of the savings bank, and will not knowingly violate, or willingly permit to be violated, any of the provisions of law applicable to such savings bank. Such oath shall be subscribed by the trustee making it and certified by the officer before whom it is taken, and shall be immediately transmitted to the (~~supervisor~~) director and filed and preserved in his or her office.

(2) Prior to the first day of March in each year, every trustee of every savings bank shall subscribe a declaration to the effect that he is, at the date thereof, a trustee of the savings bank, and that he or she has not resigned, become ineligible, or in any other manner vacated his or her office as such trustee. Such declaration shall be acknowledged in like manner as a deed to be entitled to record and shall be transmitted to the (~~supervisor~~) director and filed in his or her office prior to the tenth day of March in each year.

(3) This section does not apply to the directors of stock savings banks.

**Sec. 103.** RCW 32.16.070 and 1955 c 13 s 32.16.070 are each amended to read as follows:

(1) A trustee of a savings bank shall not, except to the extent permitted for a director of a federal mutual savings bank:

(a) Have any interest, direct or indirect, in the gains or profits of the savings bank, except to receive dividends (i) upon the amounts contributed by him or her to the guaranty fund and the expense fund of the savings bank as provided in RCW 32.08.090 and 32.08.100, and (ii) upon any deposit he or she may have in the bank, the same as any other depositor and under the same regulations and conditions.

(b) Become a member of the board of directors of a bank, trust company, or national banking association of which board enough other trustees of the savings bank are members to constitute with him a majority of the board of trustees.

(2) Neither a trustee nor an officer of a savings bank shall, except to the extent permitted for a director or officer of a federal mutual savings bank:

(a) For himself or herself or as agent or partner of another, directly or indirectly use any of the funds or deposits held by the savings bank, except to make such current and necessary payments as are authorized by the board of trustees.

(b) Receive directly or indirectly and retain for his or her own use any commission on or benefit from any loan made by the savings bank, or any pay or emolument for services rendered to any borrower from the savings bank in connection with such loan, except as authorized by RCW 32.16.050.

(c) Become an indorser, surety, or guarantor, or in any manner an obligor, for any loan made by the savings bank.

(d) For himself or herself or as agent or partner of another, directly or indirectly borrow any of the funds or deposits held by the savings bank, or become the owner of real property upon which the savings bank holds a mortgage. A loan to or a purchase by a corporation in which he or she is a stockholder to the amount of fifteen percent of the total outstanding stock, or in which he or she and other trustees of the savings bank hold stock to the amount of twenty-five percent of the total outstanding stock, shall be deemed a loan to or a purchase by such trustee within the meaning of this section, except when the loan to or purchase by such corporation occurred without his or her knowledge

or against his or her protest. A deposit in a bank shall not be deemed a loan within the meaning of this section.

**Sec. 104.** RCW 32.16.100 and 1955 c 13 s 32.16.100 are each amended to read as follows:

The trustees of every savings bank, by a committee of not less than three of their number, (~~on or before the first days of January and July in each year,~~) shall at least annually fully examine the records and affairs of such savings bank for the purpose of determining its financial condition. The trustees may employ such assistants as they deem necessary in making the examination. A report of each such examination shall be presented to the board of trustees at a regular meeting within thirty days after the completion of the same, and shall be filed in the records of the savings bank.

**Sec. 105.** RCW 32.32.025 and 1985 c 56 s 16 are each amended to read as follows:

As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) Except as provided in RCW 32.32.230, an "affiliate" of, or a person "affiliated" with, a specified person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) The term "amount", when used in regard to securities, means the principal amount if relating to evidences of indebtedness, the number of shares if relating to shares, and the number of units if relating to any other kind of security.

(3) An "applicant" is a mutual savings bank which has applied to convert pursuant to this chapter.

(4) The term "associate", when used to indicate a relationship with any person, means (a) any corporation or organization (other than the applicant or a majority-owned subsidiary of the applicant) of which the person is an officer or partner or is, directly or indirectly, the beneficial owner of ten percent or more of any class of equity securities, (b) any trust or other estate in which the person has a substantial beneficial interest or as to which the person serves as trustee or in a similar fiduciary capacity, and (c) any relative who would be a "class A beneficiary" (~~under RCW 83.08.005~~) if the person were a decedent.

(5) The term "broker" means any person engaged in the business of effecting transactions in securities for the account of others.

(6) The term "capital stock" includes permanent stock, guaranty stock, permanent reserve stock, any similar certificate evidencing nonwithdrawable capital, or preferred stock, of a savings bank converted under this chapter or of a subsidiary institution or holding company.

(7) The term "charter" includes articles of incorporation, articles of reincorporation, and certificates of incorporation, as amended, effecting (either

with or without filing with any governmental agency) the organization or creation of an incorporated person.

(8) Except as provided in RCW 32.32.230, the term "control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(9) The term "dealer" means any person who engages either for all or part of his time, directly or indirectly, as agent, broker, or principal, in the business of offering, buying, selling, or otherwise dealing or trading in securities issued by another person.

(10) The term "deposits" refers to the deposits of a savings bank that is converting under this chapter, and may refer in addition to the deposits or share accounts of any other financial institution that is converting to the stock form in connection with a merger with and into a savings bank.

(11) The term "director" means any director of a corporation, any trustee of a mutual savings bank, or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

~~((11))~~ (12) The term "eligibility record date" means the record date for determining eligible account holders of a converting mutual savings bank.

~~((12))~~ (13) The term "eligible account holder" means any person holding a qualifying deposit as determined in accordance with RCW 32.32.180.

~~((13))~~ (14) The term "employee" does not include a director or officer.

~~((14))~~ (15) The term "equity security" means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

~~((15))~~ (16) The term "market maker" means a dealer who, with respect to a particular security, (a) regularly publishes bona fide, competitive bid and offer quotations in a recognized interdealer quotation system; or (b) furnishes bona fide competitive bid and offer quotations on request; and (c) is ready, willing, and able to effect transaction in reasonable quantities at his quoted prices with other brokers or dealers.

~~((16))~~ (17) The term "material", when used to qualify a requirement for the furnishing of information as to any subject, limits the information required to those matters as to which an average prudent investor ought reasonably to be informed before purchasing an equity security of the applicant.

~~((17))~~ (18) The term "mutual savings bank" means a mutual savings bank organized and operating under Title 32 RCW.

~~((18))~~ (19) Except as provided in RCW 32.32.435, the term "offer", "offer to sell", or "offer of sale" shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security, for value. These terms shall not include preliminary negotiations or agreements between an



applicant and any underwriter or among underwriters who are or are to be in privity of contract with an applicant.

~~((19))~~ (20) The term "officer", for purposes of the purchase of stock in a conversion under this chapter or the sale of this stock, means the chairman of the board, president, vice president, secretary, treasurer or principal financial officer, comptroller or principal accounting officer, and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

~~((20))~~ (21) Except as provided in RCW 32.32.435, the term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.

~~((21))~~ (22) The term "proxy" includes every form of authorization by which a person is or may be deemed to be designated to act for a stockholder in the exercise of his voting rights in the affairs of an institution. Such an authorization may take the form of failure to dissent or object.

~~((22))~~ (23) The terms "purchase" and "buy" include every contract to purchase, buy, or otherwise acquire a security or interest in a security for value.

~~((23))~~ (24) The terms "sale" and "sell" include every contract to sell or otherwise dispose of a security or interest in a security for value; but these terms do not include an exchange of securities in connection with a merger or acquisition approved by the ~~((supervisor))~~ director.

~~((24))~~ (25) The term "savings account" means deposits established in a mutual savings bank and includes certificates of deposit.

~~((25))~~ (26) Except as provided in RCW 32.32.435, the term "security" includes any note, stock, treasury stock, bond, debenture, transferable share, investment contract, voting-trust certificate, or in general, any instrument commonly known as a "security"; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase any of the foregoing.

~~((26))~~ (27) The term "series of preferred stock" refers to a subdivision, within a class of preferred stock, each share of which has preferences, limitations, and relative rights identical with those of other shares of the same series.

(28) The term "subscription offering" refers to the offering of shares of capital stock, through nontransferable subscription rights issued to: (a) Eligible account holders as required by RCW 32.32.045; (b) supplemental eligible account holders as required by RCW 32.32.055; (c) directors, officers, and employees, as permitted by RCW 32.32.140; and (d) eligible account holders and supplemental eligible account holders as permitted by RCW 32.32.145.

~~((27))~~ (29) A "subsidiary" of a specified person is an affiliate controlled by the person, directly or indirectly through one or more intermediaries.

~~((28))~~ (30) The term "~~((supervisor))~~ director" means the ~~((supervisor-of banking))~~ director of financial institutions.

~~((29))~~ (31) The term "supplemental eligibility record date" means the supplemental record date for determining supplemental eligible account holders of a converting savings bank required by RCW 32.32.055. The date shall be the last day of the calendar quarter preceding ~~((supervisor))~~ director approval of the application for conversion.

~~((30))~~ (32) The term "supplemental eligible account holder" means any person holding a qualifying deposit, except officers, directors, and their associates, as of the supplemental eligibility record date.

~~((31))~~ (33) The term "underwriter" means any person who has purchased from an applicant with a view to, or offers or sells for an applicant in connection with, the distribution of any security, or participates or has a direct or indirect participation in the direct or indirect underwriting of any such undertaking; but the term does not include a person whose interest is limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers commission. The term "principal underwriter" means an underwriter in privity of contract with the applicant or other issuer of securities as to which that person is the underwriter.

Terms defined in other chapters of this title, when used in this chapter, shall have the meanings given in those definitions, to the extent those definitions are not inconsistent with the definitions contained in this chapter unless the context otherwise requires.

**Sec. 106.** RCW 32.32.290 and 1981 c 85 s 57 are each amended to read as follows:

With respect to the capital stock of the applicant to be sold under the plan of conversion, any preliminary offering circular for the subscription offering shall set forth the estimated subscription price range. The maximum of the price range should normally be no more than fifteen percent above the average of the minimum and maximum of the price range and the minimum should normally be no more than fifteen percent below this average. The maximum price used in the price range should normally be no more than fifty dollars per share and the minimum no less than five dollars per share. ~~((The minimum par value of each share of the capital stock of a converted savings bank shall be one dollar.))~~

**Sec. 107.** RCW 32.32.480 and 1981 c 85 s 95 are each amended to read as follows:

~~((The name of a mutual savings bank converted to a stock savings bank under this chapter shall contain the words "savings bank."))~~ A savings bank shall not be forbidden or required to change its corporate name as a result of its conversion pursuant to this chapter.

**Sec. 108.** RCW 32.32.485 and 1981 c 85 s 96 are each amended to read as follows:

(1) An application for conversion under this chapter shall include amendments to the charter of the converting savings bank. The charter of the converted savings bank, as amended, shall be known after the conversion as the articles of incorporation of the converted savings bank. The articles of incorporation may limit or permit the preemptive rights of a shareholder to acquire unissued shares of the converted savings bank and may thereafter by amendment limit, deny, or grant to shareholders of any class of stock or of any series of preferred stock the preemptive right to acquire additional shares of the converted savings bank whether then or thereafter authorized. The articles of incorporation may establish or may specify procedures, in accordance with RCW 30.08.083, for the division of a class of preferred stock into series. In addition to such provisions and the provisions permitted pursuant to RCW 23B.17.030, the articles of incorporation shall contain such other provisions not inconsistent with this chapter as the board of directors of the converting savings bank ~~((shall))~~ may determine and as shall be approved by the ((supervisor)) director.

(2) When all of the stock of a converting savings bank has been subscribed for in accordance with the plan and any amendments thereto, the board of trustees shall thereupon issue the stock and shall cause to be filed with the ~~((supervisor of banking))~~ director, in ~~((quadruplicate))~~ triplicate, a certificate subscribed ~~((and acknowledged))~~ by the persons who are to be directors of the converted savings bank, stating:

(a) That all of the stock of the converted mutual savings bank has been issued;

(b) That the attached articles of incorporation have been executed by all of the persons who are to be directors of the converted mutual savings bank;

(c) The place where the bank is to be located and its business transacted, naming the city or town and county, which city or town shall be the same as that where the principal place of business of the mutual savings bank has theretofore been located;

(d) The name, occupation, residence, and post office address of each signer of the certificate; and

(e) The amount of the assets of the mutual savings bank, the amount of its liabilities, and the amount of its guaranty fund and nondivided profits as of the first day of the current calendar month ~~((and~~

~~((f) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a director of the converted savings bank and is free from all the disqualifications specified in the laws applicable to converted mutual savings banks)).~~

(3) Upon the filing of the certificate in ~~((quadruplicate))~~ triplicate, the ~~((supervisor of banking))~~ director shall, within thirty days thereafter, if satisfied that the corporation has complied with all the provisions of this chapter, issue in ~~((quadruplicate))~~ triplicate an authorization certificate stating that the corporation has complied with all the requirements of law, and that it has authority to

transact at the place designated in its articles of incorporation the business of a converted mutual savings bank. One of the ~~((supervisor's quadruplicate))~~ director's certificates of authorization shall be attached to each of the ~~((quadruplicate))~~ articles of incorporation, and one set of these shall be filed and retained by the ~~((supervisor of banking))~~ director, ~~((one set shall be filed in the office of the county auditor of the county in which the bank is located,))~~ one set shall be filed in the office of the secretary of state, and one set shall be transmitted to the bank for its files. Upon the receipt from the corporation of the same fees as are required for filing and recording other incorporation certificates or articles the ~~((county auditor and))~~ secretary of state shall record the same; whereupon the conversion of the mutual savings bank shall be deemed complete, the requirements of RCW 32.08.010 relating to the incorporation certificate of an unconverted mutual savings bank shall no longer apply, and the signers of the articles of incorporation and their successors shall be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to converted mutual savings banks, and the time of existence of the corporation shall be perpetual, unless terminated pursuant to law.

**Sec. 109.** RCW 32.32.490 and 1985 c 56 s 28 are each amended to read as follows:

(1) Amendments to the articles of incorporation of the converted savings bank shall be made only with the approvals of the ((supervisor)) director, of two-thirds of the directors of the savings bank, and of the holders of a majority of each class of the outstanding shares of capital stock or such greater percentage of these shares as may be specified in the articles of the converted savings bank.

(2) Unless the articles of incorporation provide otherwise, the board of directors of a savings bank may, by majority vote, amend the savings bank's articles of incorporation as provided in this section without shareholder action:

(a) If the savings bank has only one class of shares outstanding, to provide, change, or eliminate any provision with respect to the par value of any class of shares;

(b) To delete the name and address of the initial directors;

(c) If the savings bank has only one class of shares outstanding, solely to change the number of authorized shares to effectuate a split of, or stock dividend in, the savings bank's own shares, or solely to do so and to change the number of authorized shares in proportion thereto;

(d) To change the savings bank's name; or

(e) To make any other change expressly permitted by this title to be made without shareholder action.

**Sec. 110.** RCW 32.32.495 and 1985 c 56 s 29 are each amended to read as follows:

(1) Every converted savings bank shall be managed by not less than five directors, except that a bank having a capital of fifty thousand dollars or less may have only three directors. Directors shall be elected by the stockholders and

hold office for one year and until their successors are elected and have qualified. In the first instance the directors shall be those named in the articles of incorporation and afterwards, those elected at the annual meeting of the stockholders to be held at least once each year on a day to be specified by the converted savings bank's bylaws but not later than May 15th of each year. If for any cause an election is not held at that time, it may be held at an adjourned meeting or at a subsequent meeting called for that purpose in the manner prescribed by the corporation's bylaws. Each director shall be a resident of a state of the United States. The directors shall meet at least nine times each year and whenever required by the ~~((supervisor))~~ director. A majority of the board of directors shall constitute a quorum for the transaction of business. At all stockholders' meetings, each share shall be entitled to one vote, unless the articles of incorporation provide otherwise. Any stockholder may vote in person or by written proxy.

(2) If the board of directors consists of nine or more members, in lieu of electing the entire number of directors annually, the converted savings bank's articles of incorporation or bylaws may provide that the directors be divided into either two or three classes, each class to be as nearly equal in number as possible, the term of office of directors of the first class to expire at the first annual meeting of shareholders after their election, that of the second class to expire at the second annual meeting after their election, and that of the third class, if any, to expire at the third annual meeting after their election. At each annual meeting after such classification, the number of directors equal to the number of the class whose term expires at the time of such meeting shall be elected to hold office until the second succeeding annual meeting, if there are two classes, or until the third succeeding annual meeting, if there are three classes. A classification of directors shall not be effective prior to the first annual meeting of shareholders.

(3) ~~((Immediately upon election,))~~ Each director ~~((shall take, subscribe, swear to, and file with the supervisor an oath that he will)),~~ so far as the duty devolves upon him or her, shall diligently and honestly administer the affairs of the corporation and ~~((will))~~ shall not knowingly violate or willingly permit to be violated any provision of law applicable to the corporation.

(4) A vacancy occurring in the board of directors may be filled by the affirmative vote of a majority of the remaining directors. A director elected to fill a vacancy shall be elected for the unexpired term of the director's predecessor in office. A directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors for a term of office continuing only until the next election of directors by the shareholders.

**Sec. 111.** RCW 32.32.500 and 1985 c 56 s 31 are each amended to read as follows:

A ~~((mutual))~~ savings bank ~~((or bank converted under this chapter))~~ may merge with, consolidate with, convert into, acquire the assets of, or sell its assets

to any other financial institution chartered or authorized to do business in this state under Titles 30, 32, or 33 RCW or under the ~~((National Bank Act, as amended, or the National Housing Act, as amended,))~~ federal laws relating to depository institutions as defined in 12 U.S.C. Sec. 461 or the laws of any other state, territory, or jurisdiction, or to a holding company thereof, subject to (1) the approval of the ~~((supervisor of banking))~~ director if the surviving institution is one chartered under Title 30 ~~((or)), 32, or 33 RCW, or (2) ((approval of the supervisor of savings and loans if the surviving institution is one chartered under Title 33 RCW, or (3)))~~ if the surviving institution is to be a national bank, the comptroller of currency or its successor under 12 U.S.C. Sec. 35, 12 U.S.C. Sec. 215, 12 U.S.C. Sec. 215a, and 12 U.S.C. Sec. 1828c, or ~~((4))~~ (3) if the surviving institution is to be a federal savings and loan association or a federal savings and loan holding company, the ~~((Federal Home Loan Bank Board))~~ office of thrift supervision or its successor under 12 U.S.C. Sec. 1464 ~~((d)(1))~~ (a), 12 U.S.C. Sec. 1467a, and 12 U.S.C. Sec. 1828(c), or ~~((5))~~ (4) if the surviving institution is to be a bank holding company, the Federal Reserve Board or its successor under 12 U.S.C. Sec. 1842 (a) and (d).

In the case of a liquidation, acquisition, merger, consolidation, or conversion of a converted savings bank, chapter 32.34 RCW shall apply.

**Sec. 112.** RCW 32.32.505 and 1985 c 56 s 32 are each amended to read as follows:

(1) It is the intention of the legislature to grant, by this chapter, authority to permit conversions by mutual savings banks to capital stock form, and the rights, powers, restrictions, limitations, and requirements of Title 32 RCW shall apply to a converted mutual savings bank except that, in the event of conflict between the provisions of this chapter and other provisions of Title 32 RCW, the other provisions shall be construed in favor of the accomplishment of the purposes of this chapter.

(2) References in the Revised Code of Washington as of the most recent effective date of any amendment, to mutual savings banks shall refer also to stock savings banks ~~((converted from mutual form under this chapter))~~. References in the Revised Code of Washington to the board of trustees of a mutual savings bank shall refer also to the board of directors of a stock savings bank ~~((converted from mutual form under this chapter))~~. The provisions of Title 30 RCW shall not apply to a converted ~~((mutual))~~ savings bank except insofar as the provisions would apply to a mutual savings bank.

**Sec. 113.** RCW 32.32.515 and 1981 c 85 s 102 are each amended to read as follows:

The guaranty fund of a mutual savings bank converted under this chapter shall become surplus of the converted savings bank, but shall not be available after conversion for purposes other than those purposes for which a guaranty fund may be used by a mutual savings bank under Title 32 RCW. No contribution need be made to the guaranty fund by the converted savings bank

after conversion. When any provision of any other chapter of this title refers to the amount of the guaranty fund for the purpose of determining the extent of the authority of a savings bank, and not for purposes of prescribing the use of funds in or contributions to the guaranty fund, such provision shall be deemed to refer to an amount including capital surplus and paid-in capital of a stock savings bank.

**NEW SECTION.** Sec. 114. A new section is added to chapter 32.32 RCW to read as follows:

(1) Shares of a savings bank may, but need not be, represented by certificates. Unless this title expressly provides otherwise, the rights and obligations of shareholders are identical whether or not their shares are represented by certificates. At a minimum, each share certificate must state the information required to be stated and must be signed as provided in RCW 23B.06.250 and/or 23B.06.270 for corporations.

(2) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a savings bank 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 savings bank.

(3) Within a reasonable time after the issue or transfer of shares without certificates, the savings bank shall send the shareholder a written statement of the information required to be stated on certificates under subsection (1) of this section.

Sec. 115. RCW 32.34.030 and 1985 c 56 s 33 are each amended to read as follows:

(1) The voluntary liquidation of a mutual savings bank converted to the stock form requires the affirmative vote or written consent of two-thirds of the directors of the converted savings bank, requires the affirmative vote of two-thirds of the outstanding stock of the savings bank, shall proceed as prescribed in chapter 32.24 RCW, and shall be complete upon the payment of any surplus remaining, after satisfaction of all debts and liabilities of the savings bank, to shareholders in accordance with their legal rights to such surplus.

(2) A savings bank which has converted to the stock form may sell all its assets and transfer all its liabilities upon the affirmative vote or with the written consent of two-thirds of its directors, and upon the affirmative vote of the holders of two-thirds of the outstanding voting shares in each class entitled to vote.

(3) Any merger or consolidation involving a mutual savings bank converted to stock form requires approval by two-thirds of the directors and by the holders of a majority of the outstanding voting shares in each class except that a merger or consolidation approved by two-thirds of the outstanding voting shares in each class requires approval by only a majority of the directors of the converted savings bank, and except as provided in subsection (4) of this section.

(4) A savings bank that has converted to the stock form may engage in a consolidation ~~((and or pooling of assets))~~ or merger upon the affirmative vote of two-thirds of its directors, if (a) the transaction is with a wholly-owned subsidiary of the converted savings bank, or (b)(i) the transaction is incident to the establishment of a holding company pursuant to RCW 32.34.040 or 12 U.S.C. Sec. 1467a, (ii) each shareholder will, immediately after the effective date of such transaction, hold the same number of shares of the holding company, with substantially the same designations, preferences, limitations, and rights, as the shares of the converted savings bank that the shareholder held immediately before the effective date, and (iii) the number of authorized shares of the holding company will, immediately after the effective date, be the same as the number of authorized shares of the converted savings bank immediately before the effective date, or (c)(i) the total assets of the converted savings bank, immediately prior to the ~~((day of the consolidation and pooling of assets))~~ effective date of the transaction, exceed two-thirds of the assets of the institution that would result from the ~~((consolidation and pooling of assets, (b)))~~ transaction and (ii) the converted savings bank will survive the ~~((consolidation and pooling of assets,))~~ transaction without its shareholders surrendering their shares of stock in the converted savings bank ~~((, and (e) the other institution being merged or consolidated is a savings bank or savings and loan association)).~~

(5) Any converted savings bank may provide in its articles of incorporation for a higher percentage of affirmative shareholder votes to approve any liquidation, sale of assets, merger, or consolidation.

**Sec. 116.** RCW 32.34.060 and 1985 c 56 s 36 are each amended to read as follows:

(1) Any holder of shares of a savings bank shall be entitled to receive the value of these shares, as specified in subsection (2) of this section, if (a) the savings bank is voluntarily liquidating, being acquired, merging, or consolidating, (b) the shareholder voted, in person or by proxy, against the liquidation, acquisition, merger, or consolidation, at a meeting of shareholders called for the purpose of voting on such transaction, and (c) the shareholder delivers a written demand for payment, with the stock certificates, to the savings bank within thirty days after such meeting of shareholders. The value of shares shall be paid in cash, within ten days after ~~((receipt of the written demand and stock certificates, except that if three appraisers are appointed))~~ the later of the effective date of the transaction or the completion of the appraisal as specified in subsection (2) of this section ~~((, the payment shall be due forty five days after receipt of such demand and stock certificates)).~~

(2) The value of such shares shall be ~~((the price published for shares listed on a national securities exchange, and shall be the bid price published for shares traded over the counter, at))~~ determined as of the close of business on the business day before the shareholders' meeting at which the shareholder dissented, ~~((except that if such shares are not so listed or traded, or if the value so~~



~~determined differs by twenty percent or more from the average of such prices for the shares during the thirty days prior to this business day, or if a violation of RCW 32.32.225 has affected such determination, then the value of the shares shall be determined, within forty days after delivery of the stock certificates,))~~ by three appraisers (~~(appointed as provided in RCW 30.49.090)~~), one to be selected by the owners of two-thirds of the dissenting shares, one by the board of directors of the institution that will survive the transaction, and the third by the two so chosen. The valuation agreed upon by any two appraisers shall govern. If such appraisal is not completed by the later of the effective date of the transaction or the thirty-fifth day after receipt of the written demand and stock certificates, the director shall cause an appraisal to be made.

(3) The dissenting shareholders shall bear, on a pro rata basis based on the number of dissenting shares owned, the cost of their appraisal and one-half of the cost of a third appraisal, and the surviving institution shall bear the cost of its appraisal and one-half the cost of the third appraisal. If the director causes an appraisal to be made, the cost of that appraisal shall be borne equally by the dissenting shareholders and the surviving institution, with the dissenting shareholders sharing their half of the cost on a pro rata basis based on the number of dissenting shares owned.

The institution that is to survive the transaction may fix an amount which it considers to be not more than the fair market value of the shares of a savings bank at the time of the stockholder's meeting approving the transaction, which it will pay dissenting shareholders entitled to payment in cash. The amount due under such accepted offer or under the appraisal shall constitute a debt of the surviving institution.

**Sec. 117.** RCW 33.08.030 and 1983 c 42 s 1 are each amended to read as follows:

A domestic association shall be incorporated either as a stock or a mutual association. The articles of incorporation shall specifically state:

- (1) The name of the association, which shall include the words:
  - (a) "Savings association";
  - (b) "Savings and loan association"; or
  - (c) "Savings bank";
- (2) The city or town and county in which it is to have its principal place of business;
- (3) The name, occupation, and place of residence of all incorporators, the majority of whom shall be Washington residents;
- (4) Its purposes;
- (5) Its duration, which may be for a stated number of years or perpetual;
- (6) The amount of paid-in savings with which the association will commence business;
- (7) The names, occupations, and addresses of the first directors;

(8) Whether the association is organized as a stock or mutual association and who has membership rights and the relative rights of different classes of members of the association; and

(9) Any provision the incorporators elect to so set forth which is permitted by RCW 23B.17.030.

The articles of incorporation may contain any other provisions consistent with the laws of this state and the provisions of this title pertaining to the association's business or the conduct of its affairs.

**Sec. 118.** RCW 33.08.100 and 1967 c 49 s 1 are each amended to read as follows:

The bylaws adopted by the incorporators and approved by the ~~((supervisor))~~ director shall be the bylaws of the association. The members, at any meeting called for the purpose, may amend the bylaws of the association on a majority vote of the members present, in person or by proxy, or the directors at any regular or special meeting called under the provisions of RCW 33.16.090 may amend the bylaws of the association on a two-thirds majority vote of the directors. ~~((Proposed amendments of the bylaws shall be submitted to the supervisor in duplicate at least thirty days prior to the meeting at which the amendments will be considered. The supervisor shall endorse thereon the word "approved" or "disapproved" and return one copy to the association within the thirty day period prior to the meeting.))~~ Amendments of the bylaws ~~((which have been approved by the supervisor))~~ shall become effective after being adopted by the board or the members. ~~((The supervisor shall be advised of the effective date.))~~

**Sec. 119.** RCW 33.12.012 and 1982 c 3 s 23 are each amended to read as follows:

Notwithstanding any other provision of law, in addition to all powers and authorities, express or implied, that an association has under this title, an association may exercise any of the powers or authorities conferred as of ~~((February 25, 1982))~~ December 31, 1993, upon a federal savings and loan association doing business in this state. As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations and requirements applicable to specific powers or authorities of federal savings and loan associations shall apply to associations exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted associations solely by this section.

**Sec. 120.** RCW 33.12.014 and 1982 c 3 s 24 are each amended to read as follows:

Notwithstanding any other provision of law, in addition to all powers and authorities, express or implied, that an association has under this title, the

~~((supervisor))~~ director may make reasonable rules authorizing an association to exercise any of the powers and authorities conferred at the time of the adoption of the rules upon a federal savings and loan association doing business in this state, or may modify or reduce reserve or other requirements if an association is insured by the federal savings and loan insurance corporation, if the ~~((supervisor))~~ director finds that the exercise of the power or authorities:

- (1) Serves the convenience and advantage of depositors and borrowers; and
- (2) Maintains the fairness of competition and parity between state-chartered savings and loan associations and federally-chartered savings and loan associations.

As used in this section, "powers and authorities" include without limitation powers and authorities in corporate governance matters.

The restrictions, limitations and requirements applicable to specific powers or authorities of federal savings and loan associations shall apply to associations exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to exercising the powers or authorities granted associations solely by this section.

**Sec. 121.** RCW 33.12.060 and 1985 c 239 s 1 are each amended to read as follows:

~~((1))~~ An association shall make no loan to or sell to or purchase any real property or securities from

~~((a))~~ any director, officer, agent, or employee of an association

~~((b)) Any former director or incorporator of the association within one year of the termination of the relationship without the prior written approval of the supervisor;~~

~~((c)) Any party involved, either directly or indirectly, in a stock tender offer for acquisition of the association, as determined by the supervisor, without the prior written approval of the supervisor; or~~

~~((d)) Any public officer or public employee whose duties have to do with the supervision, regulation, or insurance of the association or its savings accounts.~~

~~(2) The provisions of subsection (1) of this section shall not apply to:~~

~~((a)) Loans secured by the pledge or assignment of the savings account of the borrowing member;~~

~~((b)) Loans made to directors, officers, agents, or employees of the association upon their property which is occupied principally by such director, officer, agent, or employee as a home, the amount of such loan to be based upon the appraised value of said property as established by two independent appraisers who are not officers, agents, directors, employees, or appraisers of the association;~~

~~((c)) Loans made to directors, officers, or employees of the association upon their mobile dwelling, which is occupied principally by such director, officer, or employee as a home, the amount of such loan to be based upon the appraised value of the dwelling as established by two independent appraisers who are not directors, officers, employees, or appraisers of the association;~~

~~(d) Loans made to directors, officers, or employees of the association for home or property repairs, alterations, improvements, or additions, or home furnishings or appliances, for a residence which is occupied principally by such director, officer, or employee as a home;~~

~~(e) Loans made to directors, officers, or employees of the association for the payment of expenses of vocational training or college or university education; nor to~~

~~(f) Any other loans made to directors, officers, or employees of the association: PROVIDED, That the total value of the loans made or obligations acquired under authority of this section for any one director, officer, or employee shall not exceed such amount as prescribed by the supervisor under regulations adopted under the administrative procedure act, chapter 34.05 RCW. No loan may be made, credit extended, or obligation acquired unless the board of directors of the association has approved a resolution authorizing the same by a majority vote at a meeting of the board held within sixty days prior to the making or acquisition of the loan or obligation, and the vote and resolution shall be entered in the corporate minutes.~~

~~(3) A loan to or a purchase or sale to or from a partnership or corporation fifteen percent of which is owned by any one director, officer, agent, or employee of the association or twenty five percent of which is owned by any combination of directors, officers, agents, or employees of the association shall be deemed a loan to or a purchase or sale to or from such director, officer, agent, or employee within the meaning of this section except when the transaction occurred without the knowledge or against the protest of such director, officer, agent, or employee of the association)) except to the extent permitted to or from a director, officer, agent, or employee of a federal savings association.~~

Sec. 122. RCW 33.16.030 and 1982 c 3 s 29 are each amended to read as follows:

A director of a savings and loan association shall not, except to the extent permitted for a director of a federal savings and loan association:

(1) Have any interest, direct or indirect, in the gains or profits of the association, except to receive dividends, or interest upon his or her contribution to the contingent fund or upon his or her deposit accounts. However, nothing in this subsection shall prevent an officer from receiving his or her authorized compensation nor from participating in a benefit program under RCW 33.16.150, nor prevent a director from receiving an authorized director's fee;

Receive and retain, directly or indirectly, for his or her own use any commission on any loan, or purchase of real property or securities, made by the association;

(2) Become an endorser, surety, or guarantor, (or in any manner an obligor, for any loan made by the association;

(3) For himself or herself or as agent, partner, stockholder, or officer of another, directly or indirectly, borrow from the association, except as hereinafter provided.

**Sec. 123.** RCW 33.16.090 and 1982 c 3 s 34 are each amended to read as follows:

The board of directors of each association shall hold a regular meeting at least once each (~~(month)~~) quarter and whenever required by the director, at a time to be designated by it. Special meetings of the board of directors may be held upon notice to each director sufficient to permit his or her attendance.

At any meeting of the board of directors, a majority of the members shall constitute a quorum for the transaction of business.

The president of the association or chairman of the board or any three members of the board may call a meeting of the board by giving notice to all of the directors.

**NEW SECTION.** **Sec. 124.** The following acts or parts of acts are each repealed:

- (1) RCW 30.04.235 and 1983 c 157 s 1;
- (2) RCW 30.04.250 and 1955 c 33 s 30.04.250;
- (3) RCW 30.04.270 and 1955 c 33 s 30.04.270;
- (4) RCW 30.04.290 and 1973 1st ex.s. c 53 s 36, 1961 c 20 s 1, & 1955 c 33 s 30.04.290;
- (5) RCW 30.04.900 and 1987 c 498 s 2 & 1986 c 279 s 54;
- (6) RCW 30.08.110 and 1955 c 33 s 30.08.110;
- (7) RCW 30.08.120 and 1955 c 33 s 30.08.120;
- (8) RCW 30.12.050 and 1986 c 279 s 34 & 1955 c 33 s 30.12.050;
- (9) RCW 30.43.010 and 1986 c 279 s 45, 1979 c 137 s 1, & 1974 ex.s. c 166 s 1;
- (10) RCW 30.43.020 and 1981 c 83 s 1 & 1974 ex.s. c 166 s 2;
- (11) RCW 30.43.030 and 1979 c 137 s 2 & 1974 ex.s. c 166 s 3;
- (12) RCW 30.43.040 and 1979 c 137 s 3 & 1974 ex.s. c 166 s 4;
- (13) RCW 30.43.045 and 1981 c 83 s 2;
- (14) RCW 30.43.050 and 1979 c 137 s 4 & 1974 ex.s. c 166 s 5;
- (15) RCW 31.12.095 and 1984 c 31 s 11;
- (16) RCW 31.12.175 and 1984 c 31 s 19;
- (17) RCW 31.12.355 and 1984 c 31 s 37;
- (18) RCW 32.04.040 and 1985 c 469 s 16 & 1955 c 13 s 32.04.040;
- (19) RCW 32.12.060 and 1955 c 13 s 32.12.060;
- (20) RCW 32.20.290 and 1967 c 145 s 8 & 1955 c 13 s 32.20.290;
- (21) RCW 32.32.510 and 1981 c 85 s 101; and
- (22) RCW 33.12.020 and 1980 c 54 s 2 & 1945 c 235 s 30.

Passed the Senate February 10, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to section 50, Senate Bill No. 6285 entitled:

"AN ACT Relating to the strengthening and reform of the regulation of financial institutions and securities;"

This is excellent legislation designed to simplify the regulation of financial institutions and securities while maintaining effective regulation to safeguard the state's financial markets. It is another effort by the state to reform the regulatory structure to reduce paperwork and unnecessary costs for the state's businesses while continuing to safeguard the public and the solvency of financial institutions.

Section 50 would eliminate an existing requirement for banks to publish statements of condition three times a year in local newspapers. The section is intended to reduce the costs of such publication for commercial banks. Statements of condition are prepared three times a year and are available from state-chartered banks and from the Department of Financial Institutions.

However, the current statute protects the public right to know the status of state-chartered institutions without requiring the public to go to extra lengths to seek such information. As such, it is a worthwhile requirement and should be maintained. Therefore, I am vetoing section 50 of Senate Bill No. 6285.

With the exception of section 50, Senate Bill No. 6285 is approved."

## CHAPTER 257

[Engrossed Substitute Senate Bill 6339]

### ENVIRONMENTAL LAWS AND GROWTH MANAGEMENT PLANNING— HEARINGS—DEVELOPMENT REGULATIONS—HAZARDOUS WASTE CLEANUP

AN ACT Relating to facilitating growth management planning and decisions, integration with related environmental laws, and improving procedures for cleanup of hazardous waste sites; amending RCW 36.70A.270, 36.70A.290, 36.70A.030, 58.17.330, 35A.63.170, 35.63.130, 36.70.970, 70.105D.020, 70.105D.030, 70.105D.050, 70.105D.060, 34.12.020, 34.05.514, and 82.02.050; adding new sections to chapter 36.70A RCW; adding a new section to chapter 70.105D RCW; adding a new section to chapter 70.94 RCW; adding a new section to chapter 70.95 RCW; adding a new section to chapter 70.105 RCW; adding a new section to chapter 75.20 RCW; adding a new section to chapter 90.48 RCW; adding a new section to chapter 90.58 RCW; adding a new section to chapter 43.21C RCW; and providing an effective date.

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

**Sec. 1.** RCW 36.70A.270 and 1991 sp.s. c 32 s 7 are each amended to read as follows:

Each growth planning hearings board shall be governed by the following rules on conduct and procedure:

(1) Any board member may be removed for inefficiency, malfeasance, and misfeasance in office, under specific written charges filed by the governor. The governor shall transmit such written charges to the member accused and the chief justice of the supreme court. The chief justice shall thereupon designate a

tribunal composed of three judges of the superior court to hear and adjudicate the charges. Removal of any member of a board by the tribunal shall disqualify such member for reappointment.

(2) Each board member shall receive reimbursement for travel expenses incurred in the discharge of his or her duties in accordance with RCW 43.03.050 and 43.03.060. If it is determined that the review boards shall operate on a full-time basis, each member shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined that a review board shall operate on a part-time basis, each member shall receive compensation pursuant to RCW 43.03.250, provided such amount shall not exceed the amount that would be set if they were a full-time board member. The principal office of each board shall be located by the governor within the jurisdictional boundaries of each board. The boards shall operate on either a part-time or full-time basis, as determined by the governor.

(3) Each board member shall not: (a) Be a candidate for or hold any other public office or trust; (b) engage in any occupation or business interfering with or inconsistent with his or her duty as a board member; and (c) for a period of one year after the termination of his or her board membership, act in a representative capacity before the board on any matter.

(4) A majority of each board shall constitute a quorum for making orders or decisions, adopting rules necessary for the conduct of its powers and duties, or transacting other official business, and may act even though one position of the board is vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

(5) The board may ~~((also))~~ appoint ~~((as its authorized agents))~~ one or more hearing examiners to assist the board in ~~((the performance of))~~ its hearing function ~~((pursuant to the authority contained in the administrative procedure act, chapter 34.05 RCW)),~~ to make conclusions of law and findings of fact and, if requested by the board, to make recommendations to the board for decisions in cases before the board. Such hearing examiners must have demonstrated knowledge of land use planning and law. The boards shall specify in their joint rules of practice and procedure, as required by subsection (7) of this section, the procedure and criteria to be employed for designating hearing examiners as a presiding officer. Hearing examiners selected by a board shall meet the requirements of subsection (3) of this section. The findings and conclusions of the hearing examiner shall not become final until they have been formally approved by the board. ~~((Such hearing examiners must have demonstrated knowledge of land use planning and law. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.~~

~~(5))~~ This authorization to use hearing examiners does not waive the requirement of RCW 36.70A.300 that final orders be issued within one hundred eighty days of board receipt of a petition.

(6) Each board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open for public inspection at all reasonable times.

~~((6))~~ (7) All proceedings before the board ~~((or))~~, any of its members, or a hearing examiner appointed by the board shall be conducted in accordance with such administrative rules of practice and procedure as the boards jointly prescribe. All three boards shall jointly meet to develop and adopt joint rules of practice and procedure, including rules regarding expeditious and summary disposition of appeals. The boards shall publish such rules and arrange for the reasonable distribution of the rules. The administrative procedure act, chapter 34.05 RCW, shall govern the administrative rules of practice and procedure adopted by the boards.

~~((7))~~ (8) A board member or hearing examiner is subject to disqualification for bias, prejudice, interest, or any other cause for which a judge is disqualified. The joint rules of practice of the boards shall establish procedures by which a party to a hearing conducted before the board may file with the board a motion to disqualify, with supporting affidavit, against a board member or hearing examiner assigned to preside at the hearing.

(9) The members of the boards shall meet jointly on at least an annual basis with the objective of sharing information that promotes the goals and purposes of this chapter.

Sec. 2. RCW 36.70A.290 and 1991 sp.s. c 32 s 10 are each amended to read as follows:

(1) All requests for review to a growth planning hearings board shall be initiated by filing a petition that includes a detailed statement of issues presented for resolution by the board.

(2) All petitions relating to whether or not an adopted comprehensive plan, development regulation, or permanent amendment thereto, is in compliance with the goals and requirements of this chapter or chapter 43.21C RCW must be filed within sixty days after publication by the legislative bodies of the county or city. The date of publication for a city shall be the date the city publishes the ordinance, or summary of the ordinance, adopting the comprehensive plan or development regulations, or amendment thereto, as is required to be published. Promptly after adoption, a county shall publish a notice that it has adopted the comprehensive plan or development regulations, or amendment thereto. The date of publication for a county shall be the date the county publishes the notice that it has adopted the comprehensive plan or development regulations, or amendment thereto.



(3) Unless the board dismisses the petition as frivolous or finds that the person filing the petition lacks standing, the board shall, within ten days of receipt of the petition, set a time for hearing the matter.

(4) The board shall base its decision on the record developed by the city, county, or the state and supplemented with additional evidence if the board determines that such additional evidence would be necessary or of substantial assistance to the board in reaching its decision.

(5) The board, shall consolidate, when appropriate, all petitions involving the review of the same comprehensive plan or the same development regulation or regulations.

**NEW SECTION.** Sec. 3. A new section is added to chapter 36.70A RCW to read as follows:

Development regulations adopted pursuant to RCW 36.70A.040 shall establish time periods for local government actions on specific development permit applications and provide timely and predictable procedures to determine whether a completed development permit application meets the requirements of those development regulations. Such development regulations shall specify the contents of a completed development permit application necessary for the application of such time periods and procedures.

**NEW SECTION.** Sec. 4. A new section is added to chapter 36.70A RCW to read as follows:

Each city and county planning pursuant to RCW 36.70A.040 shall, within twenty working days of receiving a development permit application as defined in RCW 36.70A.030(7), mail or provide in person a written notice to the applicant, stating either: That the application is complete; or that the application is incomplete and what is necessary to make the application complete. To the extent known by the city or county, the notice shall identify other agencies of local, state, or federal governments that may have jurisdiction over some aspect of the application.

**Sec. 5.** RCW 36.70A.030 and 1990 1st ex.s. c 17 s 3 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community, trade, and economic development.

(7) For purposes of sections 3 and 4 of this act, "development permit application" means any application for a development proposal for a use that could be permitted under a plan adopted pursuant to this chapter and is consistent with the underlying land use and zoning, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses or other applications pertaining to land uses, but shall not include rezones, proposed amendments to comprehensive plans or the adoption or amendment of development regulations.

(8) "Development regulations" means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances.

~~((8))~~ (9) "Forest land" means land primarily useful for growing trees, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, for commercial purposes, and that has long-term commercial significance for growing trees commercially.

~~((9))~~ (10) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

~~((10))~~ (11) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

~~((11))~~ (12) "Minerals" include gravel, sand, and valuable metallic substances.

~~((12))~~ (13) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

~~((13))~~ (14) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

~~((14))~~ (15) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such

a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

~~((+5))~~ (16) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

~~((+6))~~ (17) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

~~((+7))~~ (18) "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 for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

Sec. 6. RCW 58.17.330 and 1977 ex.s. c 213 s 4 are each amended to read as follows:

(1) As an alternative to those provisions of this chapter requiring a planning commission to hear and issue recommendations for plat approval, the county or city legislative body may adopt a hearing examiner system and shall specify by ordinance the legal effect of the decisions made by the examiner. Except as provided in subsection (2) of this section, the legal effect of such decisions shall include one of the following:

~~((+))~~ (a) The decision may be given the effect of a recommendation to the legislative body;

~~((2))~~ (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

The legislative authority shall prescribe procedures to be followed by a hearing examiner.

(2) The legislative body shall specify the legal effect of a hearing examiner's procedural determination under the state environmental policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect under subsection (1) (a) or (b) of this section, or may be given the effect of a final decision of the legislative body.

**(3)** Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Each final decision of a hearing examiner, unless a longer period is mutually agreed to by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

**Sec. 7.** RCW 35A.63.170 and 1977 ex.s. c 213 s 2 are each amended to read as follows:

**(1)** As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide applications for conditional uses, variances or any other class of applications for or pertaining to land uses which the legislative body believes should be reviewed and decided by a hearing examiner. The legislative body shall prescribe procedures to be followed by a hearing examiner. If the legislative authority vests in a hearing examiner the authority to hear and decide variances, then the provisions of RCW 35A.63.110 shall not apply to the city.

Each city legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Except as provided in subsection (2) of this section, the legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

~~((1))~~ **(a)** The decision may be given the effect of a recommendation to the legislative body;

~~((2))~~ **(b)** The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

**(2)** The legislative body shall specify the legal effect of a hearing examiner's procedural determination under the state environmental policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect under subsection (1) (a) or (b) of this section, or may be given the effect of a final decision of the legislative body.

**(3)** Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's comprehensive plan and the city's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

**Sec. 8.** RCW 35.63.130 and 1977 ex.s. c 213 s 1 are each amended to read as follows:

**(1)** As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and report on any proposal to amend a zoning ordinance, the legislative body of a city or county may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and decide applications for amending the zoning ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative body may vest in a hearing examiner the power to hear and decide applications for conditional uses, variances, or any other class of applications for or pertaining to land uses which the legislative body believes should be reviewed and decided by a hearing examiner. The legislative body shall prescribe procedures to be followed by the hearing examiner.

Each city or county legislative body electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Except as provided in subsection (2) of this section, the legal effect of such decisions may vary for the different classes of applications decided by the examiner but shall include one of the following:

~~((1))~~ **(a)** The decision may be given the effect of a recommendation to the legislative body;

~~((2))~~ **(b)** The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative body.

**(2)** The legislative body may specify the legal effect of a hearing examiner's procedural determination under the state environmental policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect under subsection (1) (a) or (b) of this section, or may be given the effect of a final decision of the legislative body.

**(3)** Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the city's or county's comprehensive plan and the city's or county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

**Sec. 9.** RCW 36.70.970 and 1977 ex.s. c 213 s 3 are each amended to read as follows:

**(1)** As an alternative to those provisions of this chapter relating to powers or duties of the planning commission to hear and issue recommendations on applications for plat approval and applications for amendments to the zoning ordinance, the county legislative authority may adopt a hearing examiner system under which a hearing examiner or hearing examiners may hear and issue decisions on proposals for plat approval and for amendments to the zoning

ordinance when the amendment which is applied for is not of general applicability. In addition, the legislative authority may vest in a hearing examiner the power to hear and decide conditional use applications, variance applications, applications for shoreline permits or any other class of applications for or pertaining to land uses. The legislative authority shall prescribe procedures to be followed by a hearing examiner.

Any county which vests in a hearing examiner the authority to hear and decide conditional uses and variances shall not be required to have a zoning adjuster or board of adjustment.

Each county legislative authority electing to use a hearing examiner pursuant to this section shall by ordinance specify the legal effect of the decisions made by the examiner. Except as provided in subsection (2) of this section, such legal effect may vary for the different classes of applications decided by the examiner but shall include one of the following:

~~((1))~~ (a) The decision may be given the effect of a recommendation to the legislative authority;

~~((2))~~ (b) The decision may be given the effect of an administrative decision appealable within a specified time limit to the legislative authority.

(2) The legislative authority may specify the legal effect of a hearing examiner's procedural determination under the state environmental policy act, as defined in RCW 43.21C.075(3)(a). It may have the effect under subsection (1) (a) or (b) of this section, or may be given the effect of a final decision of the legislative authority.

(3) Each final decision of a hearing examiner shall be in writing and shall include findings and conclusions, based on the record, to support the decision. Such findings and conclusions shall also set forth the manner in which the decision would carry out and conform to the county's comprehensive plan and the county's development regulations. Each final decision of a hearing examiner, unless a longer period is mutually agreed to in writing by the applicant and the hearing examiner, shall be rendered within ten working days following conclusion of all testimony and hearings.

*\*Sec. 10. RCW 70.105D.020 and 1989 c 2 s 2 are each amended to read as follows:*

(1) "Agreed order" means an order issued by the department under this chapter with which the potentially liable person receiving the order agrees to comply. An agreed order may be used to require or approve any cleanup or other remedial actions but it is not a settlement under RCW 70.105D.040(4) and shall not contain a covenant not to sue, or provide protection from claims for contribution, or provide eligibility for public funding of remedial actions under RCW 70.105D.070(2)(d)(xi).

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

~~((2))~~ (3) "Director" means the director of ecology or the director's designee.

~~((3))~~ (4) "Facility" means (a) any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, vessel, or aircraft, or (b) any site or area where a hazardous substance, other than a consumer product in consumer use, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

~~((4))~~ (5) "Federal cleanup law" means the federal comprehensive environmental response, compensation, and liability act of 1980, 42 U.S.C. Sec. 9601 et seq., as amended by Public Law 99-499.

~~((5))~~ (6) "Hazardous substance" means:

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

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

(c) Any substance that, on March 1, 1989, is a hazardous substance under section 101(14) of the federal cleanup law, 42 U.S.C. Sec. 9601(14);

(d) Petroleum or petroleum products; and

(e) Any substance or category of substances, including solid waste decomposition products, determined by the director by rule to present a threat to human health or the environment if released into the environment.

The term hazardous substance does not include any of the following when contained in an underground storage tank from which there is not a release: Crude oil or any fraction thereof or petroleum, if the tank is in compliance with all applicable federal, state, and local law.

~~((6))~~ (7) "Owner or operator" means:

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

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

The term does not include:

(i) An agency of the state or unit of local government which acquired ownership or control involuntarily through bankruptcy, tax delinquency, abandonment, or circumstances in which the government involuntarily acquires title. This exclusion does not apply to an agency of the state or unit of local government which has caused or contributed to the release or threatened release of a hazardous substance from the facility; or

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

~~((7))~~ (8) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, unit of local government, federal government agency, or Indian tribe.

~~((8))~~ (9) "Potentially liable person" means any person whom the department finds, based on credible evidence, to be liable under RCW 70.105D.040. The department shall give notice to any such person and allow an opportunity for comment before making the finding, unless an emergency requires otherwise.

~~((9))~~ (10) "Public notice" means, at a minimum, adequate notice mailed to all persons who have made timely request of the department and to persons residing in the potentially affected vicinity of the proposed action; mailed to appropriate news media; published in the newspaper of largest circulation in the city or county of the proposed action; and opportunity for interested persons to comment.

~~((10))~~ (11) "Release" means any intentional or unintentional entry of any hazardous substance into the environment, including but not limited to the abandonment or disposal of containers of hazardous substances.

~~((11))~~ (12) "Remedy" or "remedial action" means any action or expenditure consistent with the purposes of this chapter to identify, eliminate, or minimize any threat or potential threat posed by hazardous substances to human health or the environment including any investigative and monitoring activities with respect to any release or threatened release of a hazardous substance and any health assessments or health effects studies conducted in order to determine the risk or potential risk to human health.

\*Sec. 10 was vetoed, see message at end of chapter.

Sec. 11. RCW 70.105D.030 and 1989 c 2 s 3 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(5) and classify substances and products as hazardous substances for purposes of RCW 82.21.020(1); and

(f) 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, within nine months after March 1, 1989, shall adopt, and thereafter enforce, rules under chapter 34.05 RCW to:

(a) Provide for public participation, including at least (i) the establishment of regional citizen's advisory committees, (ii) public notice of the development of investigative plans or remedial plans for releases or threatened releases, and (iii) 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) Establish reasonable deadlines not to exceed ninety days for initiating an investigation of a hazardous waste site after the department receives information that the site may pose a threat to human health or the environment and other reasonable deadlines for remedying releases or threatened releases at the site; and

(d) 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.

(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(5) 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. 12.** RCW 70.105D.050 and 1989 c 2 s 5 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.

**Sec. 13.** RCW 70.105D.060 and 1989 c 2 s 6 are each amended to read as follows:

The department's investigative and remedial decisions under RCW 70.105D.030 and 70.105D.050 and its decisions regarding liable persons under RCW 70.105D.020(8) and 70.105D.040 shall be reviewable exclusively in superior court and only at the following times: (1) In a cost recovery suit under RCW 70.105D.050(3); (2) in a suit by the department to enforce an order or an agreed order, or seek a civil penalty under this chapter; (3) in a suit for reimbursement under RCW 70.105D.050(2); (4) in a suit by the department to compel investigative or remedial action; and (5) in a citizen's suit under RCW 70.105D.050(5). The court shall uphold the department's actions unless they were arbitrary and capricious.

**NEW SECTION.** **Sec. 14.** A new section is added to chapter 70.105D RCW to read as follows:

(1) A person conducting a remedial action at a facility under a consent decree, order, or agreed order, and the department when it conducts a remedial action, are exempt from the procedural requirements of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW, and the procedural requirements of any laws requiring or authorizing local government permits or approvals for the remedial action. The department shall ensure compliance with the substantive provisions of chapters 70.94, 70.95, 70.105, 75.20, 90.48, and 90.58 RCW, and the substantive provisions of any laws requiring or authorizing local government permits or approvals. The department shall establish procedures for ensuring that such remedial actions comply with the substantive requirements adopted pursuant to such laws, and shall consult with the state agencies and local governments charged with implementing these laws. The procedures shall provide an opportunity for comment by the public and by the state agencies and local governments that would otherwise implement the laws referenced in this section. Nothing in this section is intended to prohibit implementing agencies from charging a fee to the person conducting the remedial action to defray the costs of services rendered relating to the substantive requirements for the remedial action.

(2) An exemption in this section or in sections 15, 16, 17, 18, 19, and 20 of this act shall not apply if the department determines that the exemption would result in loss of approval from a federal agency necessary for the state to

administer any federal law, including the federal resource conservation and recovery act, the federal clean water act, the federal clean air act, and the federal coastal zone management act. Such a determination by the department shall not affect the applicability of the exemptions to other statutes specified in this section.

**NEW SECTION.** Sec. 15. A new section is added to chapter 70.94 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** Sec. 16. A new section is added to chapter 70.95 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** Sec. 17. A new section is added to chapter 70.105 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** Sec. 18. A new section is added to chapter 75.20 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or

agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** **Sec. 19.** A new section is added to chapter 90.48 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** **Sec. 20.** A new section is added to chapter 90.58 RCW to read as follows:

The procedural requirements of this chapter shall not apply to any person conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or to the department of ecology when it conducts a remedial action under chapter 70.105D RCW. The department of ecology shall ensure compliance with the substantive requirements of this chapter through the consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or during the department-conducted remedial action, through the procedures developed by the department pursuant to section 14 of this act.

**NEW SECTION.** **Sec. 21.** A new section is added to chapter 43.21C RCW to read as follows:

In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW. Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW and the public notice and review requirements of this chapter.

**Sec. 22.** RCW 34.12.020 and 1993 c 281 s 16 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 planning hearings boards, 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. 23.** RCW 34.05.514 and 1988 c 288 s 502 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section and RCW ((34.05.538)) 36.70A.300(3), proceedings for review under this chapter shall be instituted by filing a petition in the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of the petitioner's residence or principal place of business, or (c) in any county where the property owned by the petitioner and affected by the contested decision is located.

(2) For proceedings involving institutions of higher education, the petition shall be filed either in the county in which the principal office of the institution involved is located or in the county of a branch campus if the action involves such branch.

**Sec. 24.** RCW 82.02.050 and 1993 sp.s. c 6 s 6 are each amended to read as follows:

(1) It is the intent of the legislature:

(a) To ensure that adequate facilities are available to serve new growth and development;

(b) To promote orderly growth and development by establishing standards by which counties, cities, and towns may require, by ordinance, that new growth and development pay a proportionate share of the cost of new facilities needed to serve new growth and development; and

(c) To ensure that impact fees are imposed through established procedures and criteria so that specific developments do not pay arbitrary fees or duplicative fees for the same impact.

(2) Counties, cities, and towns that are required or choose to plan under RCW 36.70A.040 are authorized to impose impact fees on development activity

as part of the financing for public facilities, provided that the financing for system improvements to serve new development must provide for a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

(3) The impact fees:

(a) Shall only be imposed for system improvements that are reasonably related to the new development;

(b) Shall not exceed a proportionate share of the costs of system improvements that are reasonably related to the new development; and

(c) Shall be used for system improvements that will reasonably benefit the new development.

(4) Impact fees may be collected and spent only for the public facilities defined in RCW 82.02.090 which are addressed by a capital facilities plan element of a comprehensive land use plan adopted pursuant to the provisions of RCW 36.70A.070 or the provisions for comprehensive plan adoption contained in chapter 36.70, 35.63, or 35A.63 RCW. After the date a county, city, or town is required to adopt its ~~((comprehensive plan and))~~ development regulations under chapter 36.70A RCW, continued authorization to collect and expend impact fees shall be contingent on the county, city, or town adopting or revising a comprehensive plan in compliance with RCW 36.70A.070, and on the capital facilities plan identifying:

(a) Deficiencies in public facilities serving existing development and the means by which existing deficiencies will be eliminated within a reasonable period of time;

(b) Additional demands placed on existing public facilities by new development; and

(c) Additional public facility improvements required to serve new development.

If the capital facilities plan of the county, city, or town is complete other than for the inclusion of those elements which are the responsibility of a special district, the county, city, or town may impose impact fees to address those public facility needs for which the county, city, or town is responsible.

**NEW SECTION. Sec. 25.** Section 5 of this act shall take effect July 1, 1994.

**NEW SECTION. Sec. 26.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 6, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to section 10, Engrossed Substitute Senate Bill No. 6339 entitled:

"AN ACT Relating to facilitating growth management planning and decisions, integration with related environmental laws, and improving procedures for clean-up of hazardous waste sites;"

This is very valuable legislation introduced as part of the state's efforts at regulatory reform. It increases the authority of Growth Planning Hearings Boards to use hearings examiners and allows the Department of Ecology to enter into agreed orders with potentially liable parties under the Model Toxics Control Act. It allows local governments to continue to impose impact fees to pay for needed public facilities and requires local governments to adopt time limits for development permitting and to notify applicants for permits. The legislation has the effect of making the regulatory process more flexible for businesses while retaining the state's ability to protect the environment and local decision-making. It also pushes local governments to increase the predictability of local permitting while retaining local flexibility over how to meet these requirements.

Section 10 of the legislation amends RCW 70.105D.020 of the Model Toxics Control Act which is also amended in section 2 of Engrossed Substitute Senate Bill No. 6123. While both sections include identical definitions of the term "agreed order," the amendment in Engrossed Substitute Senate Bill No. 6123 contains additional new language. To avoid a double amendment of this statute, I am vetoing section 10 of Engrossed Substitute Senate Bill No. 6339.

With the exception of section 10, Engrossed Substitute Senate Bill No. 6339 is approved."

**CHAPTER 258**

[Substitute Senate Bill 6466]

**TRANSPORTATION PROJECTS COLLABORATIVE PROCESS—  
DEPARTMENT OF TRANSPORTATION ENVIRONMENTAL REVIEW**

AN ACT Relating to environmental processes for the department of transportation; amending RCW 47.01.290 and 47.06.040; adding new sections to chapter 36.70A RCW; adding a new section to chapter 47.01 RCW; and creating a new section.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 36.70A RCW to read as follows:

The legislature recognizes that there are major transportation projects that affect multiple jurisdictions as to economic development, fiscal influence, environmental consequences, land use implications, and mobility of people and goods. The legislature further recognizes that affected jurisdictions have important interests that must be addressed, and that these jurisdictions' present environmental planning and permitting authority may result in multiple local permits and other requirements being specified for the projects.

The legislature finds that the present permitting system may result in segmented and sequential decisions by local governments that do not optimally serve all the parties with an interest in the decisions. The present system may also make more difficult achieving the consistency among plans and actions that is an important aspect of this chapter.



It is the intent of the legislature to provide for more efficiency and equity in the decisions of local governments regarding major transportation projects by encouraging coordination or consolidation of the processes for reviewing environmental planning and permitting requirements for those projects. The legislature intends that local governments coordinate their regulatory decisions by considering together the range of local, state, and federal requirements for major transportation projects. Nothing in section 1 or 2 of this act alters the authority of cities or counties under any other planning or permitting statute.

NEW SECTION. Sec. 2. A new section is added to chapter 36.70A RCW to read as follows:

**COLLABORATIVE TRANSPORTATION PROJECT REVIEW.** For counties engaged in planning under this chapter, there shall be established by December 31, 1994, a collaborative process to review and coordinate state and local permits for all transportation projects that cross more than one city or county boundary. This process shall at a minimum, establish a mechanism among affected cities and counties to designate a permit coordinating agency to facilitate multijurisdictional review and approval of such transportation projects.

Sec. 3. RCW 47.01.290 and 1993 c 55 s 1 are each amended to read as follows:

~~((The state interest component of the state-wide transportation plan must include a state public transportation plan that recognizes that while public transportation service is essentially a local responsibility in Washington, there is significant state interest in assuring that viable public transportation services are available throughout the state. The public transportation plan shall:~~

~~(1) Articulate the state vision of and interest in public transportation and provide quantifiable objectives, including benefits indicators;~~

~~(2) Identify the goals for public transportation and the roles of federal, state, regional, and local entities in achieving those goals;~~

~~(3) Recommend mechanisms for coordinating federal, state, regional, and local planning for public transportation;~~

~~(4) Recommend mechanisms for coordinating public transportation with other transportation services and modes;~~

~~(5) Recommend criteria, consistent with the goals identified in subsection (2) of this section and with RCW 82.44.180 (2) and (3), for existing federal authorizations administered by the department to transit agencies; and~~

~~(6) Recommend a state-wide public transportation facilities and equipment management system as required by federal law.~~

~~In developing the state public transportation plan, the department shall involve local jurisdictions, public and private providers of public transportation services, nonmotorized interests, and state agencies with an interest in public transportation, including but not limited to the departments of community development, social and health services, and ecology, the state energy office, the office of financial management, and the office of the governor.~~

~~The department shall submit an initial report to the legislative transportation committee by December 1, 1993, and shall provide annual reports summarizing the plan's progress each year thereafter.)~~ The legislature recognizes that environmental review of transportation projects is a continuous process that should begin at the earliest stages of planning and continue through final project construction. Early and extensive involvement of the relevant environmental regulatory authorities is critical in order to avoid significant changes in substantially completed project design and engineering. It is the expectation of the legislature that if a comprehensive environmental approach is integrated throughout various transportation processes, onerous, duplicative, and time-consuming permit processes will be minimized.

**NEW SECTION. Sec. 4.** A new section is added to chapter 47.01 RCW to read as follows:

The department shall, in cooperation with environmental regulatory authorities:

(1) Identify and document environmental resources in the development of the state-wide multimodal plan under RCW 47.06.040;

(2) Allow for public comment regarding changes to the criteria used for prioritizing projects under chapter 47.05 RCW before final adoption of the changes by the commission;

(3) Use an environmental review as part of the project prospectus identifying potential environmental impacts, mitigation, and costs during the early project identification and selection phase, submit the prospectus to the relevant environmental regulatory authorities, and maintain a record of comments and proposed revisions received from the authorities;

(4) Actively work with the relevant environmental regulatory authorities during the design alternative analysis process and seek written concurrence from the authorities that they agree with the preferred design alternative selected;

(5) Develop a uniform methodology, in consultation with relevant environmental regulatory authorities, for submitting plans and specifications detailing project elements that impact environmental resources, and proposed mitigation measures, to the relevant environmental regulatory authorities during the preliminary specifications and engineering phase of project development;

(6) Screen construction projects to determine which projects will require complex or multiple permits. The permitting authorities shall develop methods for initiating review of the permit applications for the projects before the final design of the projects;

(7) Conduct special prebid meetings for those projects that are environmentally complex; and

(8) Review environmental considerations related to particular projects during the preconstruction meeting held with the contractor who is awarded the bid.

**Sec. 5.** RCW 47.06.040 and 1993 c 446 s 4 are each amended to read as follows:

The department shall develop a state-wide multimodal transportation plan under RCW 47.01.071(3) and in conformance with federal requirements, to ensure the continued mobility of people and goods within regions and across the state in a safe, cost-effective manner. The state-wide multimodal transportation plan shall consist of:

(1) A state-owned facilities component, which shall guide state investment for state highways including bicycle and pedestrian facilities, and state ferries; and

(2) A state-interest component, which shall define the state interest in aviation, marine ports and navigation, freight rail, intercity passenger rail, bicycle transportation and pedestrian walkways, and public transportation, and recommend actions in coordination with appropriate public and private transportation providers to ensure that the state interest in these transportation modes is met.

The plans developed under each component must be consistent with the state transportation policy plan and with each other, reflect public involvement, be consistent with regional transportation planning, high-capacity transportation planning, and local comprehensive plans prepared under chapter 36.70A RCW, and include analysis of intermodal connections and choices. A primary emphasis for these plans shall be the improvement and integration of all transportation modes to create a seamless intermodal transportation system for people and goods.

In the development of the state-wide multimodal transportation plan, the department shall identify and document potential affected environmental resources, including, but not limited to, wetlands, storm water runoff, flooding, air quality, fish passage, and wildlife habitat. The department shall conduct its environmental identification and documentation in coordination with all relevant environmental regulatory authorities, including, but not limited to, local governments. The department shall give the relevant environmental regulatory authorities an opportunity to review the department's environmental plans. The relevant environmental regulatory authorities shall provide comments on the department's environmental plans in a timely manner. Environmental identification and documentation as provided for in section 4 of this act and this section is not intended to create a private right of action or require an environmental impact statement as provided in chapter 43.21C RCW.

**NEW SECTION.** Sec. 6. Section captions used in this act constitute no part of the law.

Passed the Senate March 6, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

CHAPTER 259

[Engrossed Substitute Senate Bill 6547]

MENTAL HEALTH SERVICES—STREAMLINING—COMMUNITY SERVICES DELIVERY PROJECT

AN ACT Relating to mental health systems accountability; and adding new sections to chapter 71.24 RCW.

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

**NEW SECTION. Sec. 1.** The legislature finds that the current complex set of rules and regulations, audited and administered at multiple levels of the mental health system, focus primarily on the process of providing mental health services and do not sufficiently address consumer and system outcomes. To this extent, the legislature finds that the intent of RCW 71.24.015 related to reduced administrative layering, duplication, and reduced administrative costs need much more aggressive action.

**NEW SECTION. Sec. 2.** The department of social and health services shall establish a single comprehensive and collaborative project within regional support networks and with local mental health service providers aimed at creating innovative and streamlined community mental health service delivery systems, in order to carry out the purposes set forth in section 1 of this act and to capture the diversity of the community mental health service delivery system.

The project must accomplish the following:

(1) Identification, review, and cataloging of all rules, regulations, duplicative administrative and monitoring functions, and other requirements that currently lead to inefficiencies in the community mental health service delivery system and, if possible, eliminate the requirements;

(2) The systematic and incremental development of a single system of accountability for all appropriated funds used to provide mental health services. Assessment must be made regarding the feasibility of also including federal and local funds into the single system of accountability;

(3) The elimination of process regulations and related contract and reporting requirements. In place of the regulations and requirements, a set of outcomes for mental health adult and children clients according to chapter 71.24 RCW must be used to measure the performance of mental health service providers and regional support networks. Such outcomes shall focus on stabilizing out-of-home and hospital care, increasing stable community living, increasing age-appropriate activities, achieving family and consumer satisfaction with services, and system efficiencies;

(4) Evaluation of the feasibility of contractual agreements between the department of social and health services and regional support networks and mental health service providers that link financial incentives to the success or failure of mental health service providers and regional support networks to meet outcomes established for mental health service clients;

(5) The involvement of mental health consumers and their representatives in the pilot projects. Mental health consumers and their representatives will be involved in the development of outcome standards for mental health clients and other related aspects of the pilot projects; and

(6) An independent evaluation component to measure the success of the projects.

**NEW SECTION.** **Sec. 3.** The project established in section 2 of this act must be implemented by July 1, 1995, in at least two regional support networks, with annual progress reports submitted to the appropriate committees of the legislature beginning November 1, 1994, and in all regional support networks state-wide with full implementation of the most effective and efficient practices identified by the evaluation in section 2 of this act no later than July 1, 1997. In addition, the department of social and health services, the participating regional support networks, and the local mental health service providers shall report to the appropriate policy and fiscal committees of the legislature on the need for any changes in state statute, rule, policy, or procedure, and any change in federal statute, regulation, policy, or procedure to ensure the purposes specified in section 1 of this act are carried out.

**NEW SECTION.** **Sec. 4.** To carry out the purposes specified in section 1 of this act, the department of social and health services is encouraged to utilize its authority to immediately eliminate any unnecessary rules, regulations, standards, or contracts, to immediately eliminate duplication of audits or any other unnecessarily duplicated functions, and to seek any waivers of federal or state rules or regulations necessary to achieve the purpose of streamlining the mental health system and infusing it with incentives that reward efficiency, positive outcomes for clients, and quality services.

**NEW SECTION.** **Sec. 5.** Sections 1 through 4 of this act are each added to chapter 71.24 RCW.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 260

[Second Engrossed Substitute House Bill 1471]

### CRAB FISHERY

AN ACT Relating to non-Puget Sound coastal commercial crab fishery; amending RCW 75.28.044, 75.28.046, 75.28.130, and 75.28.113; reenacting and amending RCW 75.30.050 and 75.28.125; adding a new section to chapter 75.28 RCW; adding new sections to chapter 75.30 RCW; creating a new section; and providing effective dates.

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

**NEW SECTION. Sec. 1.** The legislature finds that the commercial crab fishery in coastal and offshore waters is overcapitalized. The legislature further finds that this overcapitalization has led to the economic destabilization of the coastal crab industry, and can cause excessive harvesting pressures on the coastal crab resources of Washington state. In order to provide for the economic well-being of the Washington crab industry and to protect the livelihood of Washington crab fishers who have historically and continuously participated in the coastal crab fishery, the legislature finds that it is in the best interests of the economic well-being of the coastal crab industry to reduce the number of fishers taking crab in coastal waters, to reduce the number of vessels landing crab taken in offshore waters, to limit the number of future licenses, and to limit fleet capacity by limiting vessel size.

**NEW SECTION. Sec. 2.** (1) Effective January 1, 1995, it is unlawful to fish for coastal crab in Washington state waters without a Dungeness crab—coastal or a Dungeness crab—coastal class B fishery license. Gear used must consist of one buoy attached to each crab pot. Each crab pot must be fished individually.

(2) A Dungeness crab—coastal fishery license is transferable. Such a license shall only be issued to a person who proved active historical participation in the coastal crab fishery by having designated, after December 31, 1993, a vessel on the qualifying license that meets the following criteria:

(a) Made a minimum of eight coastal crab landings totaling a minimum of five thousand pounds per season in at least two of the four qualifying seasons identified in subsection (4) of this section, as documented by valid Washington state shellfish receiving tickets; and showed historical and continuous participation in the coastal crab fishery by having held one of the following licenses or their equivalents each calendar year beginning 1990 through 1993, and was designated on the qualifying license of the person who held one of the following licenses in 1994:

- (i) Crab pot—Non-Puget Sound license, issued under RCW 75.28.130(1)(b);
- (ii) Nonsalmon delivery license, issued under RCW 75.28.125;
- (iii) Salmon troll license, issued under RCW 75.28.110;
- (iv) Salmon delivery license, issued under RCW 75.28.113;
- (v) Food fish trawl license, issued under RCW 75.28.120; or
- (vi) Shrimp trawl license, issued under RCW 75.28.130; or

(b) Made a minimum of four landings of coastal crab totaling two thousand pounds during the period from December 1, 1991, to March 20, 1992, and made a minimum of eight crab landings totaling a minimum of five thousand pounds of coastal crab during each of the following periods: December 1, 1991, to September 15, 1992; December 1, 1992, to September 15, 1993; and December 1, 1993, to September 15, 1994. For landings made after December 31, 1993, the vessel shall have been designated on the qualifying license of the person making the landings.

(3) A Dungeness crab—coastal class B fishery license is not transferable. Such a license shall be issued to persons who do not meet the qualification criteria for a Dungeness crab—coastal fishery license, if the person has designated on a qualifying license after December 31, 1993, a vessel that made a minimum of four landings totaling a minimum of two thousand pounds of coastal crab, documented by valid Washington state shellfish receiving tickets, during at least one of the four qualifying seasons, and if the person has participated continuously in the coastal crab fishery by having held or by having owned a vessel that held one or more of the licenses listed in subsection (2) of this section in each calendar year subsequent to the qualifying season in which qualifying landings were made through 1994. Dungeness crab—coastal class B fishery licenses cease to exist after December 31, 1999, and the continuing license provisions of RCW 34.05.422(3) are not applicable.

(4) The four qualifying seasons for purposes of this section are:

- (a) December 1, 1988, through September 15, 1989;
- (b) December 1, 1989, through September 15, 1990;
- (c) December 1, 1990, through September 15, 1991; and
- (d) December 1, 1991, through September 15, 1992.

(5) For purposes of this section and section 9 of this act, "coastal crab" means Dungeness crab (cancer magister) taken in all Washington territorial and offshore waters south of the United States-Canada boundary and west of the Bonilla-Tatoosh line (a line from the western end of Cape Flattery to Tatoosh Island lighthouse, then to the buoy adjacent to Duntz Rock, then in a straight line to Bonilla Point of Vancouver island), Grays Harbor, Willapa Bay, and the Columbia river.

**NEW SECTION.** Sec. 3. (1) The director shall allow the landing into Washington state of crab taken in offshore waters only if:

(a) The crab are legally caught and landed by fishers with a valid Washington state Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license; or

(b) The crab are legally caught and landed by fishers with a valid Oregon or California commercial crab fishing license during the calendar year between the dates of February 15th and September 15th inclusive, if the crab were caught in offshore waters beyond the jurisdiction of Washington state, if the crab were taken with crab gear that consisted of one buoy attached to each crab pot, if each crab pot was fished individually, and if the fisher landing the crab has obtained a valid delivery license; or

(c) The director determines that the landing of offshore Dungeness crab by fishers without a Washington state Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license is in the best interest of the coastal crab processing industry and the director has been requested to allow such landings by at least three Dungeness crab processors, and if the landings are permitted only between the dates of December 1st to February 15th inclusively, if only crab fishers commercially licensed to fish by Oregon or California are

permitted to land, if the crab was taken with gear that consisted of one buoy attached to each crab pot, if each crab pot was fished individually, if the fisher landing the crab has obtained a valid delivery license, and if the decision is made on a case-by-case basis for the sole reason of improving the economic stability of the commercial crab fishery.

(2) Nothing in this section allows the commercial fishing of Dungeness crab in waters within three miles of Washington state by fishers who do not possess a valid Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license. Landings of offshore Dungeness crab by fishers without a valid Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B license do not qualify the fisher for such licenses.

**NEW SECTION.** Sec. 4. A person commercially fishing for Dungeness crab in offshore waters outside of Washington state jurisdiction shall obtain a Dungeness crab offshore delivery license from the director if the person does not possess a valid Dungeness crab—coastal fishery license or a valid Dungeness crab—coastal class B fishery license and the person wishes to land Dungeness crab into a place or a port in the state. The annual fee for a Dungeness crab offshore delivery license is two hundred fifty dollars. The director may specify restrictions on landings of offshore Dungeness crab in Washington state as authorized in section 3 of this act.

Fees from the offshore Dungeness crab delivery license shall be placed in the coastal crab account created in section 6 of this act.

**NEW SECTION.** Sec. 5. Dungeness crab—coastal fishery licenses are freely transferable on a willing seller-willing buyer basis, if upon each sale of a Dungeness crab—coastal fishery license, twenty percent of the sale proceeds are remitted to the department and deposited in the coastal crab account. Funds shall be used for license purchase as provided in section 7 of this act or for coastal crab management activities as provided in section 8 of this act.

For any license transfer that includes the transfer of the designated vessel and associated business, the seller must sign a notarized affidavit that the value of the vessel and associated business was not inflated. A marine survey documenting the value of the vessel and associated business shall be filed with the department along with the affidavit and the application to transfer the Dungeness crab—coastal fishery license. The cost of the survey shall be paid by the purchaser.

**NEW SECTION.** Sec. 6. (1) The coastal crab account is created in the custody of the state treasurer. 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. Funds may be used for license purchase as provided in section 7 of this act, or for coastal crab management activities as provided in section 8 of this act. The appropriate standing committees of the legislature shall review the status and expenditures of the coastal crab account yearly.



(2) A surcharge of two hundred fifty dollars shall be collected with each Dungeness crab—coastal fishery license and Dungeness crab—coastal class B fishery license for 1995 and 1996, for the purposes of purchasing Dungeness crab—coastal class B fishery licenses as provided in section 7 of this act. The moneys shall be deposited into the coastal crab account.

**NEW SECTION.** Sec. 7. Expenditures from the coastal crab account may be made by the department to purchase Dungeness crab—coastal class B fishery licenses during the following time periods:

(1) January 1, 1995, to December 31, 1995, at a price not to exceed five thousand dollars per license; or

(2) January 1, 1996, to December 31, 1996, at a price not to exceed three thousand five hundred dollars per license.

The department shall establish rules governing the purchase of class B licenses. Dungeness crab—coastal class B fishery licensees may apply to the department for the purposes of selling their license on a willing seller basis. Licenses will be purchased in the order applications are received, or as funds allow.

**NEW SECTION.** Sec. 8. Expenditures from the coastal crab account may be made by the department for management of the coastal crab resource. Management activities may include studies of resource viability, interstate negotiations concerning regulation of the offshore crab resource, resource enhancement projects, or other activities as determined by the department.

**NEW SECTION.** Sec. 9. (1) An Oregon resident who can show historical and continuous participation in the Washington state coastal crab fishery by having held a nonresident Non-Puget Sound crab pot license issued under RCW 75.28.130 each year from 1990 through 1994, and who has delivered a minimum of eight landings totaling five thousand pounds of crab into Oregon during any two of the four qualifying seasons as provided in section 2(4) of this act as evidenced by valid Oregon fish receiving tickets, shall be issued a nonresident Dungeness crab—coastal fishery license valid for fishing in Washington state waters north from the Oregon-Washington boundary to United States latitude forty-six degrees thirty minutes north. Such license shall be issued upon application and submission of proof of delivery.

(2) This section shall become effective contingent upon reciprocal statutory authority in the state of Oregon providing for equal access for Washington state coastal crab fishers to Oregon territorial coastal waters north of United States latitude forty-five degrees fifty-eight minutes north, and Oregon waters of the Columbia river.

**NEW SECTION.** Sec. 10. (1) The following restrictions apply to vessel designations and substitutions on Dungeness crab—coastal fishery licenses and Dungeness crab—coastal class B fishery licenses:

(a) The holder of the license may not designate on the license a vessel the hull length of which exceeds ninety-nine feet, nor may the holder change vessel

designation if the hull length of the vessel proposed to be designated exceeds the hull length of the currently designated vessel by more than ten feet;

(b) If the hull length of the vessel proposed to be designated is comparable to or exceeds by up to one foot the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any two consecutive Washington state coastal crab seasons unless the currently designated vessel is lost or in disrepair such that it does not safely operate, in which case the department may allow a change in vessel designation;

(c) If the hull length of the vessel proposed to be designated exceeds by between one and ten feet the hull length of the currently designated vessel, the department may change the vessel designation no more than once in any five consecutive Washington state coastal crab seasons, unless a request is made by the license holder during a Washington state coastal crab season for an emergency change in vessel designation. If such an emergency request is made, the director may allow a temporary change in designation to another vessel, if the hull length of the other vessel does not exceed by more than ten feet the hull length of the currently designated vessel.

(2) For the purposes of this section, "hull length" means the length of a vessel's hull as shown by United States coast guard documentation or marine survey, or for vessels that do not require United States coast guard documentation, by manufacturer's specifications or marine survey.

**Sec. 11.** RCW 75.28.044 and 1993 sp.s. c 17 s 45 are each amended to read as follows:

This section applies to all commercial fishery licenses, delivery licenses, and charter licenses, except for emergency salmon delivery licenses.

(1) The holder of a license subject to this section may substitute the vessel designated on the license or designate a vessel if none has previously been designated if the license holder:

- (a) Surrenders the previously issued license to the department;
- (b) Submits to the department an application that identifies the currently designated vessel, the vessel proposed to be designated, and any other information required by the department; and
- (c) Pays to the department a fee of thirty-five dollars.

(2) Unless the license holder owns all vessels identified on the application described in subsection (1)(b) of this section or unless the vessel is designated on a Dungeness crab—coastal or a Dungeness crab—coastal class B fishery license, the following restrictions apply to changes in vessel designation:

- (a) The department shall change the vessel designation on the license no more than four times per calendar year.
- (b) The department shall change the vessel designation on the license no more than once in any seven-day period.

**Sec. 12.** RCW 75.28.046 and 1993 c 340 s 9 are each amended to read as follows:

This section applies to all commercial fishery licenses, delivery licenses, and charter licenses, except for whiting—Puget Sound fishery licenses and emergency salmon delivery licenses.

(1) The license holder may engage in the activity authorized by a license subject to this section. With the exception of Dungeness crab—coastal fishery class B licensees licensed under section 2(3) of this act, the holder of a license subject to this section may also designate up to two alternate operators for the license. Dungeness crab—coastal fishery class B licensees may not designate alternate operators. A person designated as an alternate operator must possess an alternate operator license issued under section 23 of this act and RCW 75.28.048.

(2) The fee to change the alternate operator designation is twenty-two dollars.

**NEW SECTION. Sec. 13.** Except as provided under section 17 of this act, the director shall issue no new Dungeness crab—coastal fishery licenses after December 31, 1995. A person may renew an existing license only if the person held the license sought to be renewed during the previous year or acquired the license by transfer from someone who held it during the previous year, and if the person has not subsequently transferred the license to another person. Where the person failed to obtain the license during the previous year because of a license suspension, the person may qualify for a license by establishing that the person held such a license during the last year in which the license was not suspended.

**Sec. 14.** RCW 75.28.130 and 1993 sp.s. c 17 s 40 are each amended to read as follows:

(1) This section establishes commercial fishery licenses required for shellfish fisheries and the annual fees for those licenses. The director may issue a limited-entry commercial fishery license only to a person who meets the qualifications established in applicable governing sections of this title.

Fishery (Governing section(s))	Annual Fee		Vessel Required?	Limited Entry?
	Resident	Nonresident		
(a) Burrowing shrimp	\$185	\$295	Yes	No
<del>(b) ((Crab pot</del>	<del>\$295</del>	<del>\$520</del>	<del>Yes</del>	<del>No</del>
<del>(c) Crab pot</del>	<del>\$130</del>	<del>\$185</del>	<del>Yes</del>	<del>No</del>
<del>Puget Sound</del>				
<del>(d)) Crab ring net— Non-Puget Sound</del>	\$130	\$185	Yes	No
<del>((e)) (c) Crab ring net— Puget Sound</del>	\$130	\$185	Yes	No

<del>((f))</del> (d) Dungeness crab— coastal (section 2 of this act)	<u>\$295</u>	<u>\$520</u>	<u>Yes</u>	<u>Yes</u>
(e) Dungeness crab— coastal, class B (section 2 of this act)	<u>\$295</u>	<u>\$520</u>	<u>Yes</u>	<u>Yes</u>
(f) Dungeness crab— Puget Sound (RCW 75.30.130)	\$130	\$185	Yes	Yes
(g) Emerging commercial fishery (RCW 75.30.220 and 75.28.740)	\$185	\$295	Determined by rule	Determined by rule
(h) Geoduck (RCW 75.30.280)	\$ 0	\$ 0	Yes	Yes
(i) Hardshell clam mechanical harvester (RCW 75.28.280)	\$530	\$985	Yes	No
(j) Oyster reserve (RCW 75.28.290)	\$130	\$185	No	No
(k) Razor clam	\$130	\$185	No	No
(l) Sea cucumber dive (RCW 75.30.250)	\$130	\$185	Yes	Yes
(m) Sea urchin dive (RCW 75.30.210)	\$130	\$185	Yes	Yes
(n) Shellfish dive	<del>(\$525)</del> <u>\$130</u>	<del>(\$1045)</del> <u>\$185</u>	Yes	No
(o) Shellfish pot	\$130	\$185	Yes	No
(p) Shrimp pot— Hood Canal	\$325	\$575	Yes	No
(q) Shrimp trawl— Non-Puget Sound	\$240	\$405	Yes	No
(r) Shrimp trawl— Puget Sound	\$185	\$295	Yes	No
(s) Squid	\$185	\$295	Yes	No

(2) The director may by rule determine the species of shellfish that may be taken with the commercial fishery licenses established in this section, the gear that may be used with the licenses, and the areas or waters in which the licenses may be used. Where a fishery license has been established for a particular species, gear, geographical area, or combination thereof, a more general fishery license may not be used to take shellfish in that fishery.

**NEW SECTION. Sec. 15.** A surcharge of fifty dollars shall be collected with each Dungeness crab—coastal fishery license issued under RCW 75.28.130 until June 30, 2000, and with each Dungeness crab—coastal class B fishery license issued under RCW 75.28.130 until December 31, 1997. Moneys collected under this section shall be placed in the Dungeness crab appeals account hereby created in the state treasury. The account is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. Expenditures from the account shall only be used for processing appeals related to the issuance of Dungeness crab—coastal fishery licenses.

**NEW SECTION. Sec. 16.** (1) It is unlawful for Dungeness crab—coastal fishery licensees to take Dungeness crab in the waters of the exclusive economic zone westward of the states of Oregon or California and land crab taken in those waters into Washington state unless the licensee also holds the licenses, permits, or endorsements, required by Oregon or California to land crab into Oregon or California, respectively.

(2) This section becomes effective only upon reciprocal legislation being enacted by both the states of Oregon and California. For purposes of this section, "exclusive economic zone" means that zone defined in the federal fishery conservation and management act (16 U.S.C. Sec. 1802) as of the effective date of this section or as of a subsequent date adopted by rule of the director.

**NEW SECTION. Sec. 17.** If fewer than one hundred seventy-five persons are eligible for Dungeness crab—coastal fishery licenses, the director may accept applications for new licenses. Additional licenses issued may maintain a maximum of one hundred seventy-five licenses in the Washington coastal crab fishery. If additional licenses are to be issued, the director shall adopt rules governing the notification, application, selection, and issuance procedures for new Dungeness crab—coastal fishery licenses, based on recommendations of the review board established under RCW 75.30.050.

**Sec. 18.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 340 s 27 are each reenacted and amended to read as follows:

(1) The director shall appoint three-member advisory review boards to hear cases as provided in RCW 75.30.060. Members shall be from:

(a) The salmon charter boat fishing industry in cases involving salmon charter licenses or angler permits;

(b) The commercial salmon fishing industry in cases involving commercial salmon fishery licenses;

(c) The commercial crab fishing industry in cases involving Dungeness crab—Puget Sound fishery licenses;

(d) The commercial herring fishery in cases involving herring fishery licenses;

(e) The commercial Puget Sound whiting fishery in cases involving whiting—Puget Sound fishery licenses;

(f) The commercial sea urchin fishery in cases involving sea urchin dive fishery licenses;

(g) The commercial sea cucumber fishery in cases involving sea cucumber dive fishery licenses; ~~(and)~~

(h) The commercial ocean pink shrimp industry (*Pandalus jordani*) in cases involving ocean pink shrimp delivery licenses; and

(i) The commercial coastal crab fishery in cases involving Dungeness crab—coastal fishery licenses and Dungeness crab—coastal class B fishery licenses. The members shall include one person from the commercial crab processors, one

Dungeness crab—coastal fishery license holder, and one citizen representative of a coastal community.

(2) Members shall serve at the discretion of the director and shall be reimbursed for travel expenses as provided in RCW 43.03.050, 43.03.060, and 43.03.065.

**NEW SECTION. Sec. 19.** The director may reduce the landing requirements established under section 2 of this act upon the recommendation of an advisory review board established under RCW 75.30.050, but the director may not entirely waive the landing requirement. The advisory review board may recommend a reduction of the landing requirement in individual cases if in the board's judgment, extenuating circumstances prevented achievement of the landing requirement. The director shall adopt rules governing the operation of the advisory review board and defining "extenuating circumstances." Extenuating circumstances may include situations in which a person had a vessel under construction such that qualifying landings could not be made. In defining extenuating circumstances, special consideration shall be given to individuals who can provide evidence of lack of access to capital based on past discrimination due to race, creed, color, sex, national origin, or disability.

**NEW SECTION. Sec. 20.** The department, with input from Dungeness crab—coastal fishery licensees and processors, shall prepare a resource plan to achieve even-flow harvesting and long-term stability of the coastal Dungeness crab resource. The plan may include pot limits, further reduction in the number of vessels, individual quotas, trip limits, area quotas, or other measures as determined by the department. The plan shall be submitted to the appropriate standing committees of the legislature by December 1, 1995.

**Sec. 21.** RCW 75.28.125 and 1993 sp.s. c 17 s 39 and 1993 c 376 s 3 are each reenacted and amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is unlawful to deliver with a commercial fishing vessel food fish or shellfish taken in offshore waters to a port in the state without a ~~((non-salmon))~~ nonlimited entry delivery license. As used in this section, "food fish" does not include salmon. As used in this section, "shellfish" does not include ocean pink shrimp or coastal crab. The annual license fee for a ~~((non-salmon))~~ nonlimited entry delivery license is one hundred ten dollars for residents and two hundred dollars for nonresidents.

(2) Holders of salmon troll fishery licenses issued under RCW 75.28.110, salmon delivery licenses issued under RCW 75.28.113, crab pot fishery licenses issued under RCW 75.28.130, food fish trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.120, Dungeness crab—coastal fishery licenses, ocean pink shrimp delivery licenses, and shrimp trawl—Non-Puget Sound fishery licenses issued under RCW 75.28.130 may deliver food fish or shellfish taken in offshore waters without a ~~((non-salmon))~~ nonlimited entry delivery license.

(3) A ~~((non~~salmon)) nonlimited entry delivery license authorizes no taking of food fish or shellfish from state waters.

**Sec. 22.** RCW 75.28.113 and 1993 sp.s. c 17 s 36 are each amended to read as follows:

(1) It is unlawful to deliver salmon taken in offshore waters to a place or port in the state without a salmon delivery license from the director. The annual fee for a salmon delivery license is three hundred eighty dollars for residents and six hundred eighty-five dollars for nonresidents. The annual surcharge under RCW 75.50.100 is one hundred dollars for each license. Holders of ~~((non~~salmon)) nonlimited entry delivery licenses issued under RCW 75.28.125 may apply the ~~((non~~salmon)) nonlimited entry delivery license fee against the salmon delivery license fee.

(2) Only a person who meets the qualifications established in RCW 75.30.120 may hold a salmon delivery license issued under this section.

(3) A salmon delivery license authorizes no taking of salmon or other food fish or shellfish from the waters of the state.

(4) If the director determines that the operation of a vessel under a salmon delivery license results in the depletion or destruction of the state's salmon resource or the delivery into this state of salmon products prohibited by law, the director may revoke the license under the procedures of chapter 34.05 RCW.

**NEW SECTION. Sec. 23.** (1) Section 15 of this act is added to chapter 75.28 RCW.

(2) Sections 2 through 10, 13, 16, 17, 19, and 20 of this act are each added to chapter 75.30 RCW.

**NEW SECTION. Sec. 24.** If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

**NEW SECTION. Sec. 25.** Sections 1 through 5, 9 through 19, and 21 through 24 of this act shall take effect January 1, 1995.

**NEW SECTION. Sec. 26.** Section 8 of this act shall take effect January 1, 1997.

Passed the House March 9, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 261

[Engrossed Substitute House Bill 1652]

## ANIMAL CRUELTY LAWS MODERNIZED

AN ACT Relating to animal cruelty; amending RCW 16.52.020, 16.52.085, 16.52.095, 16.52.100, 16.52.117, 16.52.180, 16.52.190, 16.52.200, 16.52.300, 9A.48.080, 13.40.020, 81.56.120, 77.12.265, and 16.52.185; reenacting and amending RCW 9.94A.030; adding new sections to chapter 16.52 RCW; creating a new section; repealing RCW 16.52.010, 16.52.030, 16.52.040, 16.52.050, 16.52.055, 16.52.060, 16.52.065, 16.52.070, 16.52.113, 16.52.120, 16.52.130, 16.52.140, and 16.52.160; and prescribing penalties.

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

**NEW SECTION. Sec. 1.** The legislature finds there is a need to modernize the law on animal cruelty to more appropriately address the nature of the offense. It is not the intent of this act to remove or decrease any of the exemptions from the statutes on animal cruelty that now apply to customary animal husbandry practices, state game or fish laws, rodeos, fairs under chapter 15.76 RCW, or medical research otherwise authorized under federal or state law. It is the intent of this act to require the enforcement of chapter 16.52 RCW by persons who are accountable to elected officials at the local and state level.

**NEW SECTION. Sec. 2.** A new section is added to chapter 16.52 RCW to read as follows:

(1) Principles of liability as defined in chapter 9A.08 RCW apply to this chapter.

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

(a) "Animal" means any nonhuman mammal, bird, reptile, or amphibian.

(b) "Animal care and control agency" means any city or county animal control agency or authority authorized to enforce city or county municipal ordinances regulating the care, control, licensing, or treatment of animals within the city or county, and any corporation organized under RCW 16.52.020 that contracts with a city or county to enforce the city or county ordinances governing animal care and control.

(c) "Animal control officer" means any individual employed, contracted, or appointed pursuant to section 5 of this act by an animal care and control agency or humane society to aid in the enforcement of ordinances or laws regulating the care and control of animals. For purposes of this chapter, the term "animal control officer" shall be interpreted to include "humane officer" as defined in (e) of this subsection and section 5 of this act.

(d) "Euthanasia" means the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death, or by a method that causes painless loss of consciousness, and death during the loss of consciousness.

(e) "Humane officer" means any individual employed, contracted, or appointed by an animal care and control agency or humane society as authorized under section 5 of this act.



(f) "Law enforcement agency" means a general authority Washington law enforcement agency as defined in RCW 10.93.020.

(g) "Necessary food" means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species and sufficient to provide a reasonable level of nutrition for the animal.

(h) "Owner" means a person who has a right, claim, title, legal share, or right of possession to an animal or a person having lawful control, custody, or possession of an animal.

(i) "Person" means individuals, corporations, partnerships, associations, or other legal entities, and agents of those entities.

(j) "Substantial bodily harm" means substantial bodily harm as defined in RCW 9A.04.110.

NEW SECTION. **Sec. 3.** A new section is added to chapter 16.52 RCW to read as follows:

(1) Law enforcement agencies and animal care and control agencies may enforce the provisions of this chapter. Animal care and control agencies may enforce the provisions of this chapter in a county or city only if the county or city legislative authority has entered into a contract with the agency to enforce the provisions of this chapter.

(2) Animal control officers enforcing this chapter shall comply with the same constitutional and statutory restrictions concerning the execution of police powers imposed on law enforcement officers who enforce this chapter and other criminal laws of the state of Washington.

(3) Animal control officers have the following enforcement powers when enforcing this chapter:

(a) The power to issue citations based on probable cause to offenders for misdemeanor and gross misdemeanor violations of this chapter or RCW 9.08.070 or 81.56.120;

(b) The power to cause a law enforcement officer to arrest and take into custody any person the animal control officer has probable cause to believe has committed or is committing a violation of this chapter or RCW 9.08.070 or 81.56.120. Animal control officers may make an oral complaint to a prosecuting attorney or a law enforcement officer to initiate arrest. The animal control officer causing the arrest shall file with the arresting agency a written complaint within twenty-four hours of the arrest, excluding Sundays and legal holidays, stating the alleged act or acts constituting a violation;

(c) The power to carry nonfirearm protective devices for personal protection;

(d) The power to prepare affidavits in support of search warrants and to execute search warrants when accompanied by law enforcement officers to investigate violations of this chapter or RCW 9.08.070 or 81.56.120, and to seize evidence of those violations.

(4) Upon request of an animal control officer who has probable cause to believe that a person has violated this chapter or RCW 9.08.070 or 81.56.120, a law enforcement agency officer may arrest the alleged offender.

**Sec. 4.** RCW 16.52.020 and 1973 1st ex.s. c 125 s 1 are each amended to read as follows:

Any citizens of the state of Washington (~~who have heretofore, or who shall hereafter, incorporate as a body corporate,~~) incorporated under the laws of this state as a humane society or as a society for the prevention of cruelty to animals may (~~avail themselves of the privileges of RCW 16.52.010 through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180. PROVIDED, That~~) enforce the provisions of this chapter through its animal control officers subject to the limitations in sections 3 and 5 of this act. The legislative authority in each county may grant exclusive authority to exercise the privileges and authority granted by this section to one or more qualified corporations for a period of up to three years based upon ability to fulfill the purposes of this chapter.

NEW SECTION. **Sec. 5.** A new section is added to chapter 16.52 RCW to read as follows:

Trustees of humane societies incorporated pursuant to RCW 16.52.020 may appoint society members to act as animal control officers. The trustee appointments shall be in writing. The appointment shall be effective in a particular county only if an appointee obtains written authorization from the superior court of the county in which the appointee seeks to enforce this chapter. To obtain judicial authorization, an appointee seeking judicial authorization on or after the effective date of this section shall provide evidence satisfactory to the judge that the appointee has successfully completed training which has prepared the appointee to assume the powers granted to animal control officers pursuant to section 3 of this act. The trustees shall review appointments every three years and may revoke an appointment at any time by filing a certified revocation with the superior court that approved the appointment. Authorizations shall not exceed three years or trustee termination, whichever occurs first. To qualify for reappointment when a term expires on or after the effective date of this section, the officer shall obtain training or satisfy the court that the officer has sufficient experience to exercise the powers granted to animal control officers pursuant to section 3 of this act.

**Sec. 6.** RCW 16.52.085 and 1987 c 335 s 1 are each amended to read as follows:

(1) If (~~the county sheriff or other~~) a law enforcement officer (~~shall find~~) or animal control officer has probable cause to believe that (~~said~~) an owner of a domestic animal has (~~been neglected by its owner, he or she~~) violated this chapter and no responsible person can be found to assume the animal's care, the officer may authorize, with a warrant, the removal of the animal to a (~~proper pasture or other~~) suitable place for feeding and (~~restoring to health~~) care, or may place the animal under the custody of an animal care and control agency. In determining what is a suitable place, the officer shall consider the animal's needs, including its size and behavioral characteristics. An officer may remove

an animal under this subsection without a warrant only if the animal is in an immediate life-threatening condition.

(2) If a law enforcement officer or an animal control officer has probable cause to believe a violation of this chapter has occurred, the officer may authorize an examination of ~~((an))~~ a domestic animal allegedly neglected ~~((domestic animal))~~ or abused in violation of this chapter by a veterinarian to determine whether the level of neglect or abuse in violation of this chapter is sufficient to require removal of the animal. This section does not condone illegal entry onto private property.

(3) Any owner whose domestic animal is removed ~~((to a suitable place))~~ pursuant to this chapter shall be given written notice of the circumstances of the removal and notice of legal remedies available to the owner. The notice shall be given by posting at the place of seizure, by delivery to a person residing at the place of seizure, or by registered mail if the owner is known. In making the decision to remove an animal pursuant to this chapter, the ~~((law enforcement))~~ officer shall make a good faith effort to contact the animal's owner before removal ~~((unless the animal is in a life-threatening condition or unless the officer reasonably believes that the owner would remove the animal from the jurisdiction))~~.

(4) The agency having custody of the animal may euthanize the animal or may find a responsible person to adopt the animal not less than fifteen business days after the animal is taken into custody. A custodial agency may euthanize severely injured, diseased, or suffering animals at any time. An owner may prevent the animal's destruction or adoption by: (a) Petitioning the district court of the county where the animal was seized for the animal's immediate return subject to court-imposed conditions, or (b) posting a bond or security in an amount sufficient to provide for the animal's care for a minimum of thirty days from the seizure date. If the custodial agency still has custody of the animal when the bond or security expires, the animal shall become the agency's property unless the court orders an alternative disposition. If a court order prevents the agency from assuming ownership and the agency continues to care for the animal, the court shall order the owner to renew a bond or security for the agency's continuing costs for the animal's care.

(5) If no criminal case is filed within ~~((seventy-two hours))~~ fourteen business days of the ~~((removal of the animal))~~ animal's removal, the owner may petition the district court of the county where the ~~((removal of the))~~ animal ~~((occurred))~~ was removed for the ~~((return of the animal))~~ animal's return. The petition shall be filed with the court, with copies served to the law enforcement or animal care and control agency responsible for removing the animal and to the prosecuting attorney. If the court grants the petition, the agency which seized the animal must deliver the animal to the owner at no cost to the owner. If a criminal action is filed after the petition is filed but before the animal is returned, the petition shall be joined with the criminal matter.

~~((5))~~ (6) In a motion or petition for the ~~((return of the removed animal))~~ animal's return before a trial, the burden is on the owner to prove by a preponderance of the evidence that the animal will not suffer future neglect or abuse and is not in need of being restored to health.

~~((6))~~ (7) Any authorized person treating or attempting to restore an animal to health under this chapter shall not be civilly or criminally liable for such action.

**Sec. 7.** RCW 16.52.095 and Code 1881 s 840 are each amended to read as follows:

It shall not be lawful for any person to cut off more than one-half of the ear or ears of any domestic animal such as an ox, cow, bull, calf, sheep, goat or hog, or dog, and any person cutting off more than one-half of the ear or ears of any such animals, shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined in any sum less than twenty dollars. This section does not apply if cutting off more than one-half of the ear of the animal is a customary husbandry practice.

NEW SECTION. **Sec. 8.** A new section is added to chapter 16.52 RCW to read as follows:

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) Animal cruelty in the first degree is a class C felony.

NEW SECTION. **Sec. 9.** A new section is added to chapter 16.52 RCW to read as follows:

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or

(b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.

(4) In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

Sec. 10. RCW 16.52.100 and 1982 c 114 s 6 are each amended to read as follows:

~~((Any person who shall impound or confine or cause to be impounded or confined any domestic animal, shall supply the same during such confinement with a sufficient quantity of good and wholesome food and water, and in default thereof shall be guilty of a misdemeanor. In case))~~ If any domestic animal ~~((shall be))~~ is impounded or confined ~~((as aforesaid and shall continue to be))~~ without necessary food and water for more than ~~((twenty-four))~~ thirty-six consecutive hours, ~~((it shall be lawful for))~~ any person may, from time to time, as ~~((it shall be deemed))~~ is necessary ~~((to))~~, enter into and open any pound or place of confinement in which any domestic animal ~~((shall be))~~ is confined, and supply it with necessary food and water so long as it ~~((shall be))~~ is confined. ~~((Such))~~ The person shall not be liable to action for ~~((such))~~ the entry, and may collect from the animal's owner the reasonable cost of ~~((such))~~ the food and water ~~((may be collected by him of the owner of such animal, and the said))~~. The animal shall be subject to attachment ~~((therefor))~~ for the costs and shall not be exempt from levy and sale upon execution issued upon a judgment ~~((therefor))~~. If an investigating officer finds it extremely difficult to supply ~~((such))~~ confined animals with food and water, the officer may remove the animals to protective custody for that purpose.

Sec. 11. RCW 16.52.117 and 1982 c 114 s 9 are each amended to read as follows:

(1) Any person who does any of the following is guilty of a gross misdemeanor punishable by imprisonment not to exceed one year, or by a fine not to exceed five thousand dollars, or by both fine and imprisonment:

(a) Owns, possesses, keeps, or trains any ~~((dog))~~ animal with the intent that the ~~((dog))~~ animal shall be engaged in an exhibition of fighting with another ~~((dog))~~ animal;

(b) For amusement or gain causes any ~~((dog))~~ animal to fight with another ~~((dog))~~ animal, or causes any ~~((dogs))~~ animals to injure each other; or

(c) Permits any act in violation of (a) or (b) of this subsection to be done on any premises under his or her charge or control, or promotes or aids or abets any such act.

(2) Any person who is knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition of the fighting of ~~((dogs))~~ animals, with the intent to be present at such preparations, or is knowingly present at such exhibition or at any other fighting or injuring as described in subsection (1)(b) of this section, with the intent to be present at such exhibition, fighting, or injuring, is guilty of a misdemeanor.

(3) Nothing in this section may prohibit the following:

(a) The use of dogs in the management of livestock, as defined by chapter 16.57 RCW, by the owner of the livestock or the owner's employees or agents or other persons in lawful custody of the livestock;

- (b) The use of dogs in hunting as permitted by law; or  
 (c) The training of ~~((dogs))~~ animals or the use of equipment in the training of ~~((dogs))~~ animals for any purpose not prohibited by law.

**Sec. 12.** RCW 16.52.180 and 1901 c 146 s 18 are each amended to read as follows:

No part of ~~((RCW 16.52.010 through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180))~~ this chapter shall be deemed to interfere with any of the laws of this state known as the "game laws," nor ~~((shall RCW 16.52.010 through 16.52.050, 16.52.070 through 16.52.090 and 16.52.100 through 16.52.180))~~ be deemed to interfere with the right to destroy any venomous reptile or any known as dangerous to life, limb or property, or to interfere with the right to kill animals to be used for food or with any properly conducted scientific experiments or investigations, which experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by 7 U.S.C. Sec. 2131 et seq.

**Sec. 13.** RCW 16.52.190 and 1941 c 105 s 1 are each amended to read as follows:

~~((It shall be unlawful for any person to wilfully or maliciously poison any domestic animal or domestic bird: PROVIDED, That the provisions))~~ (1) Except as provided in subsections (2) and (3) of this section, a person is guilty of the crime of poisoning animals if the person intentionally or knowingly poisons an animal under circumstances which do not constitute animal cruelty in the first degree.

(2) Subsection (1) of this section shall not apply to ((the killing)) euthanizing by poison ((such)) an animal ((or bird)) in a lawful and humane manner by the animal's owner ~~((thereof))~~, or by a duly authorized servant or agent of ~~((such))~~ the owner, or by a person acting pursuant to instructions from a duly constituted public authority.

(3) Subsection (1) of this section shall not apply to the reasonable use of rodent or pest poison, insecticides, fungicides, or slug bait for their intended purposes. As used in this section, the term "rodent" includes but is not limited to Columbia ground squirrels, other ground squirrels, rats, mice, gophers, rabbits, and any other rodent designated as injurious to the agricultural interests of the state as provided in chapter 17.16 RCW. The term "pest" as used in this section includes any pest as defined in RCW 17.21.020.

**Sec. 14.** RCW 16.52.200 and 1987 c 335 s 2 are each amended to read as follows:

(1) The sentence imposed for a misdemeanor or gross misdemeanor violation of this chapter may be deferred or suspended in accordance with RCW 3.66.067 and 3.66.068, however the probationary period shall be two years.

(2) In case of multiple misdemeanor or gross misdemeanor convictions, the sentences shall be consecutive, however the probationary period shall remain two years.

(3) In addition to the penalties imposed by the court, the court shall order the forfeiture of all animals held by law enforcement or animal care and control authorities under the provisions of this chapter if any one of the animals involved dies as a result of a violation of this chapter or if the defendant has a prior conviction under this chapter. In other cases the court may enter an order requiring the owner to forfeit the animal if the court deems the ~~((cruel))~~ animal's treatment to have been severe and likely to reoccur. If forfeiture is ordered, the owner shall be prohibited from owning or caring for any similar animals for a period of two years. The court may delay its decision on forfeiture under this subsection until the end of the probationary period.

(4) In addition to fines and court costs, the ~~((owner))~~ defendant, only if convicted or in agreement, shall be liable for reasonable costs incurred pursuant to this chapter by ~~((the))~~ law enforcement agencies, animal care and control agencies, or authorized private or public entities involved with the care of the animals. Reasonable costs include expenses of the investigation, and the animal's care, euthanization, or adoption.

(5) If convicted, the ~~((owner))~~ defendant shall also pay a civil penalty of one ~~((hundred))~~ thousand dollars to the county to prevent cruelty to animals. These funds shall be used to prosecute offenses under this chapter and to care for forfeited animals pending trial.

(6) As a condition of the sentence imposed under this chapter or RCW 9.08.070, the court may also order the defendant to participate in an available animal cruelty prevention or education program or obtain available psychological counseling to treat mental health problems contributing to the violation's commission. The defendant shall bear the costs of the program or treatment.

Sec. 15. RCW 16.52.300 and 1990 c 226 s 1 are each amended to read as follows:

(1) If any person ~~((who uses))~~ commits the crime of animal cruelty in the first or second degree by using or trapping to use domestic dogs or cats as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, ~~((in such a fashion as to torture, torment, deprive of necessary sustenance, cruelly beat, or mutilate such animals, shall be guilty of a misdemeanor.~~

~~(2) Any person who violates the provisions of subsection (1) of this section, and whose actions result in the death of the animal, shall be guilty of a gross misdemeanor.~~

~~(3) Any person who captures by trap a domestic dog or cat to be used as bait, prey, or targets for the purpose of training dogs or other animals to track, fight, or hunt, in such a fashion as to torture, torment, deprive of necessary~~

~~sustenance, cruelly beat, or mutilate such animals, shall be guilty of a misdemeanor.~~

~~(4) Any person who violates the provisions of subsection (3) of this section, and whose actions result in the death of the animal, shall be guilty of a gross misdemeanor.~~

~~(5) If a person violates this section,)~~ law enforcement ~~((authorities))~~ officers or animal control officers shall seize and hold the animals being trained. ~~((Such))~~ The seized animals shall be disposed of by the court pursuant to the provisions of RCW 16.52.200(3).

~~((6))~~ (2) This section shall not in any way interfere with or impair the operation of any provision of Title 28B RCW, relating to higher education or biomedical research.

**Sec. 16.** RCW 9.94A.030 and 1994 c 1 s 3 (Initiative Measure No. 593), 1993 c 338 s 2, 1993 c 251 s 4, and 1993 c 164 s 1 are each reenacted and amended to read as follows:

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

(1) "Collect," or any derivative thereof, "collect and remit," or "collect and deliver," when used with reference to the department of corrections, means that the department is responsible for monitoring and enforcing the offender's sentence with regard to the legal financial obligation, receiving payment thereof from the offender, and, consistent with current law, delivering daily the entire payment to the superior court clerk without depositing it in a departmental account.

(2) "Commission" means the sentencing guidelines commission.

(3) "Community corrections officer" means an employee of the department who is responsible for carrying out specific duties in supervision of sentenced offenders and monitoring of sentence conditions.

(4) "Community custody" means that portion of an inmate's sentence of confinement in lieu of earned early release time served in the community subject to controls placed on the inmate's movement and activities by the department of corrections.

(5) "Community placement" means that period during which the offender is subject to the conditions of community custody and/or postrelease supervision, which begins either upon completion of the term of confinement (postrelease supervision) or at such time as the offender is transferred to community custody in lieu of earned early release. Community placement may consist of entirely community custody, entirely postrelease supervision, or a combination of the two.

(6) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender.

(7) "Community supervision" means a period of time during which a convicted offender is subject to crime-related prohibitions and other sentence



conditions imposed by a court pursuant to this chapter or RCW 16.52.200(6) or 46.61.524. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(8) "Confinement" means total or partial confinement as defined in this section.

(9) "Conviction" means an adjudication of guilt pursuant to Titles 10 or 13 RCW and includes a verdict of guilty, a finding of guilty, and acceptance of a plea of guilty.

(10) "Court-ordered legal financial obligation" means a sum of money that is ordered by a superior court of the state of Washington for legal financial obligations which may include restitution to the victim, statutorily imposed crime victims' compensation fees as assessed pursuant to RCW 7.68.035, court costs, county or interlocal drug funds, court-appointed attorneys' fees, and costs of defense, fines, and any other financial obligation that is assessed to the offender as a result of a felony conviction. Upon conviction for vehicular assault while under the influence of intoxicating liquor or any drug, RCW 46.61.522(1)(b), or vehicular homicide while under the influence of intoxicating liquor or any drug, RCW 46.61.520(1)(a), legal financial obligations may also include payment to a public agency of the expense of an emergency response to the incident resulting in the conviction, subject to the provisions in RCW 38.52.430.

(11) "Crime-related prohibition" means an order of a court prohibiting conduct that directly relates to the circumstances of the crime for which the offender has been convicted, and shall not be construed to mean orders directing an offender affirmatively to participate in rehabilitative programs or to otherwise perform affirmative conduct.

(12)(a) "Criminal history" means the list of a defendant's prior convictions, whether in this state, in federal court, or elsewhere. The history shall include, where known, for each conviction (i) whether the defendant has been placed on probation and the length and terms thereof; and (ii) whether the defendant has been incarcerated and the length of incarceration.

(b) "Criminal history" shall always include juvenile convictions for sex offenses and shall also include a defendant's other prior convictions in juvenile court if: (i) The conviction was for an offense which is a felony or a serious traffic offense and is criminal history as defined in RCW 13.40.020(~~((6)(a))~~) (9); (ii) the defendant was fifteen years of age or older at the time the offense was committed; and (iii) with respect to prior juvenile class B and C felonies or serious traffic offenses, the defendant was less than twenty-three years of age at the time the offense for which he or she is being sentenced was committed.

(13) "Department" means the department of corrections.

(14) "Determinate sentence" means a sentence that states with exactitude the number of actual years, months, or days of total confinement, of partial confinement, of community supervision, the number of actual hours or days of community service work, or dollars or terms of a legal financial obligation. The fact that an offender through "earned early release" can reduce the actual period of confinement shall not affect the classification of the sentence as a determinate sentence.

(15) "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of any amount required by law to be withheld. For the purposes of this definition, "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonuses, or otherwise, and, notwithstanding any other provision of law making the payments exempt from garnishment, attachment, or other process to satisfy a court-ordered legal financial obligation, specifically includes periodic payments pursuant to pension or retirement programs, or insurance policies of any type, but does not include payments made under Title 50 RCW, except as provided in RCW 50.40.020 and 50.40.050, or Title 74 RCW.

(16) "Drug offense" means:

(a) Any felony violation of chapter 69.50 RCW except possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403);

(b) Any offense defined as a felony under federal law that relates to the possession, manufacture, distribution, or transportation of a controlled substance; or

(c) Any out-of-state conviction for an offense that under the laws of this state would be a felony classified as a drug offense under (a) of this subsection.

(17) "Escape" means:

(a) Escape in the first degree (RCW 9A.76.110), escape in the second degree (RCW 9A.76.120), willful failure to return from furlough (RCW 72.66.060), willful failure to return from work release (RCW 72.65.070), or willful failure to be available for supervision by the department while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(18) "Felony traffic offense" means:

(a) Vehicular homicide (RCW 46.61.520), vehicular assault (RCW 46.61.522), eluding a police officer (RCW 46.61.024), or felony hit-and-run injury-accident (RCW 46.52.020(4)); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a felony traffic offense under (a) of this subsection.

(19) "Fines" means the requirement that the offender pay a specific sum of money over a specific period of time to the court.

(20)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug or the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense.

(b) For purposes of (a) of this subsection, a juvenile adjudication for an offense committed before the age of fifteen years is not a previous felony conviction except for adjudications of sex offenses.

(21) "Most serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any felony defined under any law as a class A felony or criminal solicitation of or criminal conspiracy to commit a class A felony;

(b) Assault in the second degree;

(c) Assault of a child in the second degree;

(d) Child molestation in the second degree;

(e) Controlled substance homicide;

(f) Extortion in the first degree;

(g) Incest when committed against a child under age fourteen;

(h) Indecent liberties;

(i) Kidnapping in the second degree;

(j) Leading organized crime;

(k) Manslaughter in the first degree;

(l) Manslaughter in the second degree;

(m) Promoting prostitution in the first degree;

(n) Rape in the third degree;

(o) Robbery in the second degree;

(p) Sexual exploitation;

(q) Vehicular assault;

(r) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(s) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under this section;

(t) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

(u) Any felony offense in effect at any time prior to December 2, 1993, that is comparable to a most serious offense under this subsection, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a most serious offense under this subsection.

(22) "Nonviolent offense" means an offense which is not a violent offense.

(23) "Offender" means a person who has committed a felony established by state law and is eighteen years of age or older or is less than eighteen years of age but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110. Throughout this chapter, the terms "offender" and "defendant" are used interchangeably.

(24) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, in an approved residence, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release, home detention, work crew, and a combination of work crew and home detention as defined in this section.

(25) "Persistent offender" is an offender who:

(a) Has been convicted in this state of any felony considered a most serious offense; and

(b) Has, before the commission of the offense under (a) of this subsection, been convicted as an offender on at least two separate occasions, whether in this state or elsewhere, of felonies that under the laws of this state would be considered most serious offenses and would be included in the offender score under RCW 9.94A.360; provided that of the two or more previous convictions, at least one conviction must have occurred before the commission of any of the other most serious offenses for which the offender was previously convicted.

(26) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(27) "Restitution" means the requirement that the offender pay a specific sum of money over a specific period of time to the court as payment of damages. The sum may include both public and private costs. The imposition of a restitution order does not preclude civil redress.

(28) "Serious traffic offense" means:

(a) Driving while under the influence of intoxicating liquor or any drug (RCW 46.61.502), actual physical control while under the influence of intoxicating liquor or any drug (RCW 46.61.504), reckless driving (RCW 46.61.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(29) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, assault of a child in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(30) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(31) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes;

(b) A felony with a finding of sexual motivation under RCW 9.94A.127; or

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

(32) "Sexual motivation" means that one of the purposes for which the defendant committed the crime was for the purpose of his or her sexual gratification.

(33) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, or pursuant to RCW 72.64.050 and 72.64.060.

(34) "Transition training" means written and verbal instructions and assistance provided by the department to the offender during the two weeks prior to the offender's successful completion of the work ethic camp program. The transition training shall include instructions in the offender's requirements and obligations during the offender's period of community custody.

(35) "Victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged.

(36) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicat-

ing liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

(37) "Work crew" means a program of partial confinement consisting of civic improvement tasks for the benefit of the community of not less than thirty-five hours per week that complies with RCW 9.94A.135. The civic improvement tasks shall have minimal negative impact on existing private industries or the labor force in the county where the service or labor is performed. The civic improvement tasks shall not affect employment opportunities for people with developmental disabilities contracted through sheltered workshops as defined in RCW 82.04.385. Only those offenders sentenced to a facility operated or utilized under contract by a county or the state are eligible to participate on a work crew. Offenders sentenced for a sex offense as defined in subsection (31) of this section are not eligible for the work crew program.

(38) "Work ethic camp" means an alternative incarceration program designed to reduce recidivism and lower the cost of corrections by requiring offenders to complete a comprehensive array of real-world job and vocational experiences, character-building work ethics training, life management skills development, substance abuse rehabilitation, counseling, literacy training, and basic adult education.

(39) "Work release" means a program of partial confinement available to offenders who are employed or engaged as a student in a regular course of study at school. Participation in work release shall be conditioned upon the offender attending work or school at regularly defined hours and abiding by the rules of the work release facility.

(40) "Home detention" means a program of partial confinement available to offenders wherein the offender is confined in a private residence subject to electronic surveillance. Home detention may not be imposed for offenders convicted of a violent offense, any sex offense, any drug offense, reckless burning in the first or second degree as defined in RCW 9A.48.040 or 9A.48.050, assault in the third degree as defined in RCW 9A.36.031, assault of a child in the third degree, unlawful imprisonment as defined in RCW 9A.40.040, or harassment as defined in RCW 9A.46.020. Home detention may be imposed for offenders convicted of possession of a controlled substance (RCW 69.50.401(d)) or forged prescription for a controlled substance (RCW 69.50.403) if the offender fulfills the participation conditions set forth in this subsection and is monitored for drug use by treatment alternatives to street crime (TASC) or a comparable court or agency-referred program.

(a) Home detention may be imposed for offenders convicted of burglary in the second degree as defined in RCW 9A.52.030 or residential burglary conditioned upon the offender: (i) Successfully completing twenty-one days in a work release program, (ii) having no convictions for burglary in the second degree or residential burglary during the preceding two years and not more than two prior convictions for burglary or residential burglary, (iii) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (iv) having no prior charges of escape, and (v) fulfilling the other conditions of the home detention program.

(b) Participation in a home detention program shall be conditioned upon: (i) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (ii) abiding by the rules of the home detention program, and (iii) compliance with court-ordered legal financial obligations. The home detention program may also be made available to offenders whose charges and convictions do not otherwise disqualify them if medical or health-related conditions, concerns or treatment would be better addressed under the home detention program, or where the health and welfare of the offender, other inmates, or staff would be jeopardized by the offender's incarceration. Participation in the home detention program for medical or health-related reasons is conditioned on the offender abiding by the rules of the home detention program and complying with court-ordered restitution.

**Sec. 17.** RCW 9A.48.080 and 1979 c 145 s 2 are each amended to read as follows:

(1) A person is guilty of malicious mischief in the second degree if he or she knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding two hundred fifty dollars; or

(b) Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication(~~(or~~

~~(c) Notwithstanding RCW 16.52.070, causes physical damage, destruction, or injury by amputation, mutilation, castration, or other malicious act to a horse, mule, cow, heifer, bull, steer, swine, goat, or sheep which is the property of another)).~~

(2) Malicious mischief in the second degree is a class C felony.

**Sec. 18.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree; or

(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(4) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(5) "Community-based rehabilitation" means one or more of the following: Attendance of information classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, education or outpatient treatment programs to prevent animal cruelty, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(7) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract



with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court and may be served in a detention group home, detention foster home, or with electronic monitoring. Detention group homes and detention foster homes used for confinement shall not also be used for the placement of dependent children. Confinement in detention group homes and detention foster homes and electronic monitoring are subject to available funds;

(8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(10) "Department" means the department of social and health services;

(11) "Detention facility" means a county facility for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person or entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(18) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; residential burglary; vehicular homicide; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(21) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(22) "Secretary" means the secretary of the department of social and health services;

(23) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(25) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(26) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(27) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

Sec. 19. RCW 81.56.120 and 1961 c 14 s 81.56.120 are each amended to read as follows:

Railroad companies in carrying or transporting animals shall not permit them to be confined in cars for a longer period than forty-eight consecutive hours without unloading them for rest, water and feeding for a period of at least two consecutive hours, unless prevented from so unloading them by unavoidable accident. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included. Animals so unloaded shall, during such rest, be properly fed, watered by the owner or person having the custody of them, or in case of his default in so doing, then by the railroad company transporting them, at the expense of said owner or person in custody thereof, and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for such detention of such animals. If animals are transported where they can and do have proper food, water, space and opportunity for rest, the foregoing provision in regard to their being unloaded shall not apply. Violators of this section shall be punished by fine not exceeding one (~~hundred~~) thousand dollars per animal.

**\*NEW SECTION.** Sec. 20. *A new section is added to chapter 16.52 RCW to read as follows:*

*A person may kill a bear or cougar that is reasonably perceived to be an unavoidable and immediate threat to human life.*

\*Sec. 20 was vetoed, see message at end of chapter.

**\*Sec. 21.** RCW 77.12.265 and 1987 c 506 s 35 are each amended to read as follows:

*The owner or tenant of real property may trap or kill on that property wild animals or wild birds, other than an endangered species, that is threatening human life or damaging crops, domestic animals, fowl, or other property. Except in emergency situations, deer, elk, and protected wildlife shall not be killed without a permit issued and conditioned by the director. The director may delegate this authority.*

*For the purposes of this section, "emergency" means an unforeseen circumstance beyond the control of the landowner or tenant that presents a*

*real and immediate threat to human life, crops, domestic animals, fowl, or other property.*

*Alternatively, when sufficient time for the issuance of a permit by the director is not available, verbal permission may be given by the appropriate department regional administrator to owners or tenants of real property to trap or kill on that property any cougar, bear, deer, elk, or protected wildlife which is threatening human life or damaging crops, domestic animals, fowl, or other property. The regional administrator may delegate, in writing, a member of the regional staff to give the required permission in these emergency situations. Nothing in this section authorizes in any situation the trapping, hunting, or killing of an endangered species.*

*Wildlife trapped or killed under this section remains the property of the state, and the person trapping or killing the wildlife shall notify the department immediately. The director shall dispose of wildlife so taken within three working days of receiving such a notification.*

*If the department receives recurring complaints regarding property being damaged as described in this section from the owner or tenant of real property, or receives such complaints from several such owners or tenants in a locale, the commission shall consider conducting a special hunt or special hunts to reduce the potential for such damage.*

*For purposes of this section, "crop" means an agricultural or horticultural product growing or harvested and includes wild shrubs and range land vegetation on privately owned cattle ranching lands. On such lands, the land owner or lessee may declare an emergency when the department has not responded within forty-eight hours after having been contacted by the land owner or lessee regarding crop damage by wild animals or wild birds. However, the department shall not allow claims for damage to wild shrubs or range land vegetation on such lands.*

*Deer and elk shall not be killed under the authority of this section on privately owned cattle ranching lands that were closed to public hunting during the previous hunting season, except for land closures which are coordinated with the department to protect property and livestock.*

*The department shall work closely with landowners and tenants suffering game damage problems to control damage without killing the animals when practical, to increase the harvest of damage-causing animals in hunting seasons, or to kill the animals when no other practical means of damage control is feasible.*

*\*Sec. 21 was vetoed, see message at end of chapter.*

**Sec. 22.** RCW 16.52.185 and 1982 c 114 s 10 are each amended to read as follows:

Nothing in this chapter applies to accepted husbandry practices used in the commercial raising or slaughtering of livestock or poultry, or products thereof or to the use of animals in the normal and usual course of rodeo events or to the

customary use or exhibiting of animals in normal and usual events at fairs as defined in RCW 15.76.120.

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

- (1) RCW 16.52.010 and 1901 c 146 s 17;
- (2) RCW 16.52.030 and 1982 c 114 s 2 & 1901 c 146 s 2;
- (3) RCW 16.52.040 and 1901 c 146 s 14;
- (4) RCW 16.52.050 and 1901 c 146 s 10;
- (5) RCW 16.52.055 and 1901 c 146 s 3;
- (6) RCW 16.52.060 and 1987 c 202 s 182 & 1893 c 27 s 9;
- (7) RCW 16.52.065 and 1982 c 114 s 3 & 1893 c 27 s 8;
- (8) RCW 16.52.070 and 1982 c 114 s 4, 1979 c 145 s 4, & 1901 c 146 s 4;
- (9) RCW 16.52.113 and 1982 c 114 s 8;
- (10) RCW 16.52.120 and 1982 c 114 s 11 & 1901 c 146 s 7;
- (11) RCW 16.52.130 and 1982 c 114 s 12 & 1901 c 146 s 8;
- (12) RCW 16.52.140 and 1901 c 146 s 11; and
- (13) RCW 16.52.160 and 1901 c 146 s 9.

Passed the House March 9, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to sections 20 and 21, Engrossed Substitute House Bill No. 1652 entitled:

"AN ACT Relating to animal cruelty;"

Engrossed Substitute House Bill No. 1652 provides for a comprehensive overhaul of animal cruelty statutes. A broad spectrum of interest groups participated in the development of this legislation, from animal rights advocates to cattlemen and hunters. While I support the effort to modernize and improve outdated statutes, I am opposed to sections 20 and 21 of this act.

Section 20 provides that a person may kill a bear or a cougar "reasonably perceived" to be an unavoidable and immediate threat to human life. While I support the ability of anyone to take action against animals threatening human life, the defense of necessity is already available in legitimate cases. To broaden the language to "reasonably perceived" sets up a subjective defense and could cause prosecutorial problems. For this reason, I am vetoing section 20.

Section 21 attempts to expand the authority to kill cougars or bears threatening human life. However, the language as passed would not allow a person to kill or trap endangered species if they were threatening human life. Since the defense of necessity already exists, I am vetoing section 21.

With the exception of sections 20 and 21, Engrossed Substitute House Bill No. 1652 is approved."

## CHAPTER 262

[Engrossed Substitute House Bill 2224]

MOTOR VEHICLES, VESSELS, AND FUEL—LICENSING  
AND REGULATION REVISED

AN ACT Relating to department of licensing regulatory programs concerning motor vehicles, vessels, and fuel taxes; amending RCW 46.01.230, 46.04.670, 46.10.150, 46.10.170, 46.12.160, 46.12.170, 46.12.181, 46.16.070, 46.16.210, 46.70.090, 46.70.124, 46.87.020, 46.87.040, 46.87.090, 46.87.335, 46.87.350, 70.84.090, 82.36.030, 82.36.060, 82.36.070, 82.36.120, 82.38.020, 82.38.090, 82.38.130, 82.38.170, 82.38.220, and 88.02.125; repealing RCW 46.16.080; and providing an effective date.

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

**Sec. 1.** RCW 46.01.230 and 1992 c 216 s 2 are each amended to read as follows:

(1) The department of licensing is authorized to accept checks and money orders for payment of drivers' licenses, certificates of ownership and registration, motor vehicle excise taxes, gross weight fees, and other fees and taxes collected by the department, in accordance with regulations adopted by the director. The director's regulations shall duly provide for the public's convenience consistent with sound business practice and shall encourage the annual renewal of vehicle registrations by mail to the department, authorizing checks and money orders for payment. Such regulations shall contain provisions for cancellation of any registrations, licenses, or permits paid for by checks or money orders which are not duly paid and for the necessary accounting procedures in such cases: PROVIDED, That any bona fide purchaser for value of a vehicle shall not be liable or responsible for any prior uncollected taxes and fees paid, pursuant to this section, by a check which has subsequently been dishonored: AND PROVIDED FURTHER, That no transfer of ownership of a vehicle may be denied to a bona fide purchaser for value of a vehicle if there are outstanding uncollected fees or taxes for which a predecessor paid, pursuant to this section, by check which has subsequently been dishonored nor shall the new owner be required to pay any fee for replacement vehicle license number plates that may be required pursuant to RCW 46.16.270 as now or hereafter amended.

(2) It is a traffic infraction to fail to surrender within ten days to the department or any authorized agent of the department any certificate, license, or permit after being notified (~~by certified mail~~) that such certificate, license, or permit has been canceled pursuant to this section. Notice of cancellation may be accomplished by sending a notice by first class mail using the last known address in department records for the holder of the certificate, license, or permit, and recording the transmittal on an affidavit of first class mail.

(3) Whenever registrations, licenses, or permits have been paid for by checks that have been dishonored by nonacceptance or nonpayment, a reasonable handling fee may be assessed for each such instrument. Notwithstanding provisions of any other laws, county auditors, agents, and subagents, appointed or approved by the director pursuant to RCW 46.01.140, may collect restitution,

and where they have collected restitution may retain the reasonable handling fee. The amount of the reasonable handling fee may be set by rule by the director.

(4) In those counties where the county auditor has been appointed an agent of the director under RCW 46.01.140, the auditor shall continue to process mail-in registration renewals until directed otherwise by legislative authority.

**Sec. 2.** RCW 46.04.670 and 1991 c 214 s 2 are each amended to read as follows:

"Vehicle" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including bicycles. The term does not include devices other than bicycles moved by human or animal power or used exclusively upon stationary rails or tracks. Mopeds shall not be considered vehicles or motor vehicles (~~(only for the purposes of chapter 46.12 RCW, but not)~~) for the purposes of chapter 46.70 RCW. Bicycles shall not be considered vehicles for the purposes of chapter 46.12, 46.16, or 46.70 RCW.

**Sec. 3.** RCW 46.10.150 and 1979 ex.s. c 182 s 12 are each amended to read as follows:

From time to time, but at least once each biennium, the director shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be a tax on snowmobile fuel, and the treasurer shall refund such amounts (~~(, less the cost of making the determination)~~) determined under RCW 46.10.170, and place them in the snowmobile account in the general fund.

**Sec. 4.** RCW 46.10.170 and 1993 c 54 s 7 are each amended to read as follows:

From time to time, but at least once each four years, the department shall determine the amount (~~(or proportion)~~) of moneys paid to it as motor vehicle fuel tax (~~(, based on the tax rate in effect January 1, 1990, which)~~) that is tax on snowmobile fuel. Such determination ((may be made in any manner which is, in the judgment of the director, reasonable, but the manner used to make such determination shall be reported at the end of each four-year period to the legislature. To offset the actual cost of making such determination the treasurer shall retain in, and the department is authorized to expend from, the motor vehicle fund a sum equal to such actual cost)) shall use one hundred thirty-five gallons as the average yearly fuel usage per snowmobile, the number of registered snowmobiles during the calendar year under determination, and the fuel tax rate in effect January 1, 1990.

**Sec. 5.** RCW 46.12.160 and 1975 c 25 s 12 are each amended to read as follows:

If the (~~(director)~~) department determines at any time that an applicant for certificate of ownership or for a certificate of license registration for a vehicle is not entitled thereto, (~~(he)~~) the department may refuse to issue such certificate or to license the vehicle and (~~(he)~~) may, for like reason, after notice, and in the

exercise of discretion, cancel license registration already acquired or any outstanding certificate of ownership. ~~((The notice shall be served personally or sent by certified mail return receipt requested.))~~ Notice of cancellation may be accomplished by sending a notice by first class mail using the last known address in department records for the registered or legal vehicle owner or owners, and recording the transmittal on an affidavit of first class mail. It shall then be unlawful for any person to remove, drive, or operate the vehicle until a proper certificate of ownership or license registration has been issued, and any person removing, driving, or operating such vehicle after the refusal of the ~~((director))~~ department to issue certificates or the revocation thereof shall be guilty of a gross misdemeanor.

**Sec. 6.** RCW 46.12.170 and 1979 ex.s. c 113 s 2 are each 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 provided by the department and shall be accompanied by a fee of one dollar and twenty-five cents 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 and transmit the certificate to the department with an accompanying fee of one dollar and twenty-five cents 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 or transmit the certificate of ownership to the department within ten days after proper demand, that secured party shall be liable to the debtor for one hundred dollars, and in addition for any loss caused to the debtor by such failure.

**Sec. 7.** RCW 46.12.181 and 1990 c 250 s 31 are each amended to read as follows:

If a certificate of ownership or a certificate of license registration 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 in addition to all other fees and upon furnishing information satisfactory to the department. The duplicate certificate of ownership or license



registration shall contain the legend, "This is a duplicate certificate." It shall be mailed to the first priority secured party named in it or, if none, to the owner.

A person recovering an original certificate of ownership or title registration for which a duplicate has been issued shall promptly surrender the original certificate to the department.

**Sec. 8.** RCW 46.16.070 and 1993 sp.s. c 23 s 60 are each amended to read as follows:

(1) In lieu of all other vehicle licensing fees, unless specifically exempt, and in addition to the excise tax prescribed in chapter 82.44 RCW and the mileage fees prescribed for buses and stages in RCW 46.16.125, there shall be paid and collected annually for each truck, motor truck, truck tractor, road tractor, tractor, bus, auto stage, or for hire vehicle with seating capacity of more than six, based upon the declared combined gross weight or declared gross weight thereof pursuant to the provisions of chapter 46.44 RCW, the following licensing fees by such gross weight:

<u>DECLARED GROSS WEIGHT</u>	<u>SCHEDULE A</u>	<u>SCHEDULE B</u>
4,000 lbs. . . . .	<u>\$ 37.00</u> . . . . .	\$ 37.00
6,000 lbs. . . . .	<u>\$ 44.00</u> . . . . .	\$ 44.00
8,000 lbs. . . . .	<u>\$ 55.00</u> . . . . .	\$ 55.00
10,000 lbs. . . . .	<u>\$ 62.00</u> . . . . .	\$ 62.00
12,000 lbs. . . . .	<u>\$ 72.00</u> . . . . .	\$ 72.00
14,000 lbs. . . . .	<u>\$ 82.00</u> . . . . .	\$ 82.00
16,000 lbs. . . . .	<u>\$ 92.00</u> . . . . .	\$ 92.00
18,000 lbs. . . . .	<u>\$ 137.00</u> . . . . .	\$ 137.00
20,000 lbs. . . . .	<u>\$ 152.00</u> . . . . .	\$ 152.00
22,000 lbs. . . . .	<u>\$ 164.00</u> . . . . .	\$ 164.00
24,000 lbs. . . . .	<u>\$ 177.00</u> . . . . .	\$ 177.00
26,000 lbs. . . . .	<u>\$ 187.00</u> . . . . .	\$ 187.00
28,000 lbs. . . . .	<u>\$ 220.00</u> . . . . .	\$ 220.00
30,000 lbs. . . . .	<u>\$ 253.00</u> . . . . .	\$ 253.00
32,000 lbs. . . . .	<u>\$ 304.00</u> . . . . .	\$ 304.00
34,000 lbs. . . . .	<u>\$ 323.00</u> . . . . .	\$ 323.00
36,000 lbs. . . . .	<u>\$ 350.00</u> . . . . .	\$ 350.00
38,000 lbs. . . . .	<u>\$ 384.00</u> . . . . .	\$ 384.00
40,000 lbs. . . . .	<u>\$ 439.00</u> . . . . .	\$ 439.00
42,000 lbs. . . . .	<u>\$ 456.00</u> . . . . .	\$ 546.00
44,000 lbs. . . . .	<u>\$ 466.00</u> . . . . .	\$ 556.00
46,000 lbs. . . . .	<u>\$ 501.00</u> . . . . .	\$ 591.00
48,000 lbs. . . . .	<u>\$ 522.00</u> . . . . .	\$ 612.00
50,000 lbs. . . . .	<u>\$ 566.00</u> . . . . .	\$ 656.00
52,000 lbs. . . . .	<u>\$ 595.00</u> . . . . .	\$ 685.00
54,000 lbs. . . . .	<u>\$ 642.00</u> . . . . .	\$ 732.00
56,000 lbs. . . . .	<u>\$ 677.00</u> . . . . .	\$ 767.00

58,000 lbs.	.....	<u>\$ 704.00</u>	.....	\$ 794.00
60,000 lbs.	.....	<u>\$ 750.00</u>	.....	\$ 840.00
62,000 lbs.	.....	<u>\$ 804.00</u>	.....	\$ 894.00
64,000 lbs.	.....	<u>\$ 822.00</u>	.....	\$ 912.00
66,000 lbs.	.....	<u>\$ 915.00</u>	.....	\$ 1,005.00
68,000 lbs.	.....	<u>\$ 954.00</u>	.....	\$ 1,044.00
70,000 lbs.	.....	<u>\$ 1,027.00</u>	.....	\$ 1,117.00
72,000 lbs.	.....	<u>\$ 1,098.00</u>	.....	\$ 1,188.00
74,000 lbs.	.....	<u>\$ 1,193.00</u>	.....	\$ 1,283.00
76,000 lbs.	.....	<u>\$ 1,289.00</u>	.....	\$ 1,379.00
78,000 lbs.	.....	<u>\$ 1,407.00</u>	.....	\$ 1,497.00
80,000 lbs.	.....	<u>\$ 1,518.00</u>	.....	\$ 1,608.00
82,000 lbs.	.....	<u>\$ 1,623.00</u>	.....	\$ 1,713.00
84,000 lbs.	.....	<u>\$ 1,728.00</u>	.....	\$ 1,818.00
86,000 lbs.	.....	<u>\$ 1,833.00</u>	.....	\$ 1,923.00
88,000 lbs.	.....	<u>\$ 1,938.00</u>	.....	\$ 2,028.00
90,000 lbs.	.....	<u>\$ 2,043.00</u>	.....	\$ 2,133.00
92,000 lbs.	.....	<u>\$ 2,148.00</u>	.....	\$ 2,238.00
94,000 lbs.	.....	<u>\$ 2,253.00</u>	.....	\$ 2,343.00
96,000 lbs.	.....	<u>\$ 2,358.00</u>	.....	\$ 2,448.00
98,000 lbs.	.....	<u>\$ 2,463.00</u>	.....	\$ 2,553.00
100,000 lbs.	.....	<u>\$ 2,568.00</u>	.....	\$ 2,658.00
102,000 lbs.	.....	<u>\$ 2,673.00</u>	.....	\$ 2,763.00
104,000 lbs.	.....	<u>\$ 2,778.00</u>	.....	\$ 2,868.00
105,500 lbs.	.....	<u>\$ 2,883.00</u>	.....	\$ 2,973.00

Schedule A applies to vehicles either used exclusively for hauling logs or that do not tow trailers. Schedule B applies to vehicles that tow trailers and are not covered under Schedule A.

Every truck, motor truck, truck tractor, and tractor exceeding 6,000 pounds empty scale weight registered under chapter 46.16, 46.87, or 46.88 RCW shall be licensed for not less than one hundred fifty percent of its empty weight unless the amount would be in excess of the legal limits prescribed for such a vehicle in RCW 46.44.041 or 46.44.042, in which event the vehicle shall be licensed for the maximum weight authorized for such a vehicle or unless the vehicle is used only for the purpose of transporting any well drilling machine, air compressor, rock crusher, conveyor, hoist, donkey engine, cook house, tool house, bunk house, or similar machine or structure attached to or made a part of such vehicle.

The following provisions apply when increasing gross or combined gross weight for a vehicle licensed under this section:

(a) The new license fee will be one-twelfth of the fee listed above for the new gross weight, multiplied by the number of months remaining in the period for which licensing fees have been paid, including the month in which the new gross weight is effective.

(b) Upon surrender of the current certificate of registration or cab card, the new licensing fees due shall be reduced by the amount of the licensing fees previously paid for the same period for which new fees are being charged.

(2) The proceeds from the fees collected under subsection (1) of this section shall be distributed in accordance with RCW 46.68.035.

**Sec. 9.** RCW 46.16.210 and 1977 c 8 s 1 are each amended to read as follows:

(1) Upon receipt of the application and proper fee for original vehicle license, the director shall make a recheck of the application and in the event that there is any error in the application it may be returned to the county auditor or other agent to effectively secure the correction of such error, who shall return the same corrected to the director.

(2) Application for the renewal of a vehicle license shall be made to the director or his agents, including county auditors, by the registered owner on a form prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington unless the applicant submits a preprinted application mailed from Olympia, and the payment of such license fees and excise tax as may be required by law. Such application shall be handled in the same manner and the fees transmitted to the state treasurer in the same manner as in the case of an original application. Any such application which upon validation becomes a renewal certificate need not have entered upon it the name of the lien holder, if any, of the vehicle concerned.

(3) Persons expecting to be out of the state during the normal forty-five day renewal period of a vehicle license may secure renewal of such vehicle license ~~((for a period of thirty days prior thereto))~~ and have license plates or tabs preissued by making application to the director or his agents upon forms prescribed by the director. The application must be accompanied by the certificate of registration for the last registration period in which the vehicle was registered in Washington and be accompanied by such license fees, ~~((including a special handling fee of two dollars, one dollar to be retained by the issuing agency, and one dollar to be deposited in the highway safety fund;))~~ and excise tax as may be required by law.

(4) Application for the annual renewal of a vehicle license number plate to the director or his agents shall not be required for those vehicles owned, rented, or leased by the state of Washington, or by any county, city, town, school district, or other political subdivision of the state of Washington.

**Sec. 10.** RCW 46.70.090 and 1992 c 222 s 2 are each amended to read as follows:

(1) The department shall issue a vehicle dealer license plate which shall be attached to the rear of the vehicle only and which is capable of distinguishing the classification of the dealer, to vehicle dealers properly licensed pursuant to this

chapter and shall, upon application, issue manufacturer's license plates to manufacturers properly licensed pursuant to this chapter.

(2) The department shall issue to a vehicle dealer up to three vehicle dealer license plates. After the third dealer plate is issued, the department shall limit the number of dealer plates to six percent of the vehicles sold during the preceding license period. For an original license the vehicle dealer license applicant shall estimate the first year's sales. The director or director's designee may waive these dealer plate issuance restrictions for a vehicle dealer if the waiver both serves the purposes of this chapter and is essential to the continuation of the business. The director shall adopt rules to implement this waiver.

(3) Motor vehicle dealer license plates may be used:

(a) To demonstrate motor vehicles held for sale when operated by an individual holding a valid operator's license, if a dated demonstration permit, valid for no more than seventy-two hours, is carried in the vehicle at all times it is operated by any such individual.

(b) On motor vehicles owned, held for sale, and which are in fact available for sale by the firm when operated by an officer of the corporation, partnership, or proprietorship or by their spouses, or by ~~by~~ ~~((a bona fide full time))~~ an employee of the firm, if a card so identifying any such individual is carried in the vehicle at all times it is operated by such individual. Any such vehicle so operated may be used to transport the dealer's own tools, parts, and equipment of a total weight not to exceed five hundred pounds.

(c) On motor vehicles being tested for repair.

(d) On motor vehicles being moved to or from a motor vehicle dealer's place of business for sale.

(e) On motor vehicles being moved to or from motor vehicle service and repair facilities before sale.

(f) On motor vehicles being moved to or from motor vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(4) Mobile home and travel trailer dealer license plates may be used:

(a) On units hauled to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(b) On mobile homes hauled to a customer's location for set-up after sale.

(c) On travel trailers held for sale to demonstrate the towing capability of the vehicle if a dated demonstration permit, valid for not more than seventy-two hours, is carried with the vehicle at all times.

(d) On mobile homes being hauled from a customer's location if the requirements of RCW 46.44.170 and 46.44.175 are met.

(e) On any motor vehicle owned by the dealer which is used only to move vehicles legally bearing mobile home and travel trailer dealer license plates of the dealer so owning any such motor vehicle.

(f) On vehicles being moved to or from vehicle exhibitions within the state of Washington, if any such exhibition does not exceed a period of twenty days.

(5) Miscellaneous vehicle dealer license plates may be used:

(a) To demonstrate any miscellaneous vehicle: PROVIDED, That:

(i) No such vehicle may be demonstrated on a public highway unless the customer has an appropriate endorsement on his driver's license, if such endorsement is required to operate such vehicle; and

(ii) A dated demonstration permit, valid for no more than seventy-two hours, is carried with the vehicle at all times it is operated by any such individual.

(b) On vehicles owned, held for sale, and which are in fact available for sale, by the firm when operated by an officer of the corporation, partnership, or proprietorship or by a bona fide full-time employee of the firm, if a card so identifying such individual is carried in the vehicle at all times it is operated by him.

(c) On vehicles being tested for repair.

(d) On vehicles being transported to or from the place of business of the manufacturer and the place of business of the dealer or to and from places of business of the dealer.

(e) On vehicles on which any other item sold or to be sold by the dealer is transported from the place of business of the manufacturer to the place of business of the dealer or to and from places of business of the dealer if such vehicle and such item are purchased or sold as one package.

(6) Manufacturers properly licensed pursuant to this chapter may apply for and obtain manufacturer license plates and may be used:

(a) On vehicles being moved to or from the place of business of a manufacturer to a vehicle dealer within this state who is properly licensed pursuant to this chapter.

(b) To test vehicles for repair.

(7) Vehicle dealer license plates and manufacturer license plates shall not be used for any purpose other than set forth in this section and specifically shall not be:

(a) Used on any vehicle not within the class for which the vehicle dealer or manufacturer license plates are issued unless specifically provided for in this section.

(b) Loaned to any person for any reason not specifically provided for in this section.

(c) Used on any vehicles for the transportation of any person, produce, freight, or commodities unless specifically provided for in this section, except there shall be permitted the use of such vehicle dealer license plates on a vehicle transporting commodities in the course of a demonstration over a period not to exceed seventy-two consecutive hours from the commencement of such demonstration, if a representative of the dealer is present and accompanies such vehicle during the course of the demonstration.

(d) Used on any vehicle sold to a resident of another state to transport such vehicle to that other state in lieu of a trip permit or in lieu of vehicle license plates obtained from that other state.

(e) Used on any new vehicle unless the vehicle dealer has provided the department a current service agreement with the manufacturer or distributor of that vehicle as provided in RCW 46.70.041(1)(k).

(8) In addition to or in lieu of any sanction imposed by the director pursuant to RCW 46.70.101 for unauthorized use of vehicle dealer license plates or manufacturer license plates, the director may order that any or all vehicle dealer license plates or manufacturer license plates issued pursuant to this chapter be confiscated for such period as he deems appropriate.

**Sec. 11.** RCW 46.70.124 and 1990 c 250 s 29 are each amended to read as follows:

~~((In the case of))~~ Vehicle dealers shall possess a separate certificate of ownership~~((, either of the dealer or of the dealer's immediate vendor properly assigned, shall be required covering))~~ or other evidence of ownership approved by the department for each used vehicle kept in the dealer's possession. Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned. In the case of consigned vehicles, the vehicle dealer may possess a completed consignment contract that includes a guaranteed title from the seller in lieu of the required certificate of ownership.

**Sec. 12.** RCW 46.87.020 and 1993 c 307 s 12 are each amended to read as follows:

Terms used in this chapter have the meaning given to them in the International Registration Plan (IRP), the Uniform Vehicle Registration, Proration, and Reciprocity Agreement (Western Compact), chapter 46.04 RCW, or as otherwise defined in this section. Definitions given to terms by the IRP and the Western Compact, as applicable, shall prevail unless given a different meaning in this chapter or in rules adopted under authority of this chapter.

(1) "Apportionable vehicle" has the meaning given by the IRP, except that it does not include vehicles with a declared gross weight of twelve thousand pounds or less. Apportionable vehicles include trucks, tractors, truck tractors, road tractors, and buses, each as separate and licensable vehicles. For IRP jurisdictions that require the registration of nonmotor vehicles, this term may include trailers, semitrailers, and pole trailers as applicable, each as separate and licensable vehicles.

(2) "Cab card" is a certificate of registration issued for a vehicle by the registering jurisdiction under the Western Compact. Under the IRP, it is a certificate of registration issued by the base jurisdiction for a vehicle upon which is disclosed the jurisdictions and registered gross weights in such jurisdictions for which the vehicle is registered.

(3) "Commercial vehicle" is a term used by the Western Compact and means any vehicle, except recreational vehicles, vehicles displaying restricted plates, and government owned or leased vehicles, that is operated and registered in more than one jurisdiction and is used or maintained for the transportation of persons for hire, compensation, or profit, or is designed, used, or maintained primarily for the transportation of property and:

(a) Is a motor vehicle having a declared gross weight in excess of twenty-six thousand pounds; or

(b) Is a motor vehicle having three or more axles with a declared gross weight in excess of twelve thousand pounds; or

(c) Is a motor vehicle, trailer, pole trailer, or semitrailer used in combination when the gross weight or declared gross weight of the combination exceeds twenty-six thousand pounds combined gross weight. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Although a two-axle motor vehicle, trailer, pole trailer, semitrailer, or any combination of such vehicles with an actual or declared gross weight or declared combined gross weight exceeding twelve thousand pounds but not more than twenty-six thousand is not considered to be a commercial vehicle, at the option of the owner, such vehicles may be considered as "commercial vehicles" for the purpose of proportional registration. The nonmotor vehicles mentioned are only applicable to those jurisdictions requiring the registration of such vehicles.

Commercial vehicles include trucks, tractors, truck tractors, road tractors, and buses. Trailers, pole trailers, and semitrailers, will also be considered as commercial vehicles for those jurisdictions who require registration of such vehicles.

(4) "Credentials" means cab cards, apportioned plates (for Washington-based fleets), and validation tabs issued for proportionally registered vehicles.

(5) "Declared combined gross weight" means the total unladen weight of any combination of vehicles plus the weight of the maximum load to be carried on the combination of vehicles as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid.

(6) "Declared gross weight" means the total unladen weight of any vehicle plus the weight of the maximum load to be carried on the vehicle as set by the registrant in the application pursuant to chapter 46.44 RCW and for which registration fees have been or are to be paid. In the case of a bus, auto stage, or a passenger-carrying for hire vehicle with a seating capacity of more than six, the declared gross weight shall be determined by multiplying the average load factor of one hundred and fifty pounds by the number of seats in the vehicle, including the driver's seat, and add this amount to the unladen weight of the vehicle. If the resultant gross weight is not listed in RCW 46.16.070, it will be increased to the next higher gross weight so listed pursuant to chapter 46.44 RCW.

(7) "Department" means the department of licensing.

(8) "Fleet" means one or more commercial vehicles in the Western Compact and one or more apportionable vehicles in the IRP.

(9) "In-jurisdiction miles" means the total miles accumulated in a jurisdiction during the preceding year by vehicles of the fleet while they were a part of the fleet.

(10) "IRP" means the International Registration Plan.

(11) "Jurisdiction" means and includes a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country, and a state or province of a foreign country.

(12) "Owner" means a person or business firm who holds the legal title to a vehicle, or if a vehicle is the subject of an agreement for its conditional sale with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee, or if a vehicle is subject to a lease, contract, or other legal arrangement vesting right of possession or control, for security or otherwise, or if a mortgagor of a vehicle is entitled to possession, then the owner is deemed to be the person or business firm in whom is vested right of possession or control.

(13) "Preceding year" means the period of twelve consecutive months ending ((three months before the registration or license year)) on the last full calendar quarter, at least four months before the beginning of the registration year for which proportional registration is sought.

(14) "Properly registered," as applied to the place of registration under the provisions of the Western Compact, means:

(a) In the case of a commercial vehicle, the jurisdiction in which it is registered if the commercial enterprise in which the vehicle is used has a place of business therein, and, if the vehicle is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled in or from that place of business, and the vehicle has been assigned to that place of business; or

(b) In the case of a commercial vehicle, the jurisdiction where, because of an agreement or arrangement between two or more jurisdictions, or pursuant to a declaration, the vehicle has been registered as required by that jurisdiction.

In case of doubt or dispute as to the proper place of registration of a commercial vehicle, the department shall make the final determination, but in making such determination, may confer with departments of the other jurisdictions affected.

(15) "Prorate percentage" is the factor that is applied to the total proratable fees and taxes to determine the apportionable or prorate fees required for registration in a particular jurisdiction. It is determined by dividing the in-jurisdiction miles for a particular jurisdiction by the total miles. This term is synonymous with the term "mileage percentage."

(16) "Registrant" means a person, business firm, or corporation in whose name or names a vehicle or fleet of vehicles is registered.



(17) "Registration year" means the twelve-month period during which the registration plates issued by the base jurisdiction are valid according to the laws of the base jurisdiction.

(18) "Total miles" means the total number of miles accumulated in all jurisdictions during the preceding year by all vehicles of the fleet while they were a part of the fleet. Mileage accumulated by vehicles of the fleet that did not engage in interstate operations is not included in the fleet miles.

(19) "Western Compact" means the Uniform Vehicle Registration, Proration, and Reciprocity Agreement.

**Sec. 13.** RCW 46.87.040 and 1987 c 244 s 19 are each amended to read as follows:

Additional gross weight may be purchased for proportionally registered motor vehicles to the limits authorized under chapter 46.44 RCW. Reregistration at the higher gross weight (maximum gross weights under this chapter are ~~((forty))~~ fifty-four thousand pounds for a solo three-axle truck or ~~((eighty))~~ one hundred five thousand five hundred pounds for a combination) for the balance of the registration year, including the full registration month in which the vehicle is initially licensed at the higher gross weight. The apportionable or proportional fee initially paid to the state of Washington, reduced for the number of full registration months the license was in effect, will be deducted from the total fee to be paid to this state for licensing at the higher gross weight for the balance of the registration year. No credit or refund will be given for a reduction of gross weight.

**Sec. 14.** RCW 46.87.090 and 1987 c 244 s 24 are each amended to read as follows:

(1) To replace an apportioned vehicle license plate(s), cab card, or validation tab(s) due to loss, defacement, or destruction, the registrant shall apply to the department on forms furnished for that purpose. The application, together with proper payment and other documentation as indicated, shall be filed with the department as follows:

(a) Apportioned plate(s) - a fee of ten dollars shall be charged for vehicles required to display two apportioned plates or five dollars for vehicles required to display one apportioned plate. The cab card of the vehicle for which a plate is requested shall accompany the application. The department shall issue a new apportioned plate(s) with validation tab(s) and a new cab card upon acceptance of the completed application form, old cab card, and the required replacement fee.

(b) Cab card - a fee of two dollars shall be charged for each card. If this is a duplicate cab card, it will be noted thereon.

(c) Validation year tab(s) - a fee of two dollars shall be charged for each vehicle.

(2) ~~((If available, backing plates may be purchased from the department for a fee of two dollars each. These plates are used on vehicles registered under~~

~~provisions of the Western Compact to display validation tabs issued by the prorate jurisdictions as evidence of proportional registration for each vehicle so registered.~~

(3)) All fees collected under this section shall be deposited to the motor vehicle fund.

**Sec. 15.** RCW 46.87.335 and 1991 c 339 s 5 are each amended to read as follows:

Except in the case of violations of filing a false or fraudulent application, if the department deems mitigation of penalties, fees, and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

**Sec. 16.** RCW 46.87.350 and 1987 c 244 s 48 are each amended to read as follows:

If an owner of proportionally registered vehicles for which an assessment has become final is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to the vehicle owner or owing any debts to the owner, at the time of the receipt by them of the notice. Thereafter, a person so notified shall neither transfer nor make other disposition of those credits, personal property, or debts until the department consents to a transfer or other disposition. A person so notified shall, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall forthwith deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court upon application of the department and after the time to answer the notice has expired, to render judgment by default against the person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice.

**Sec. 17.** RCW 70.84.090 and 1985 c 309 s 1 are each amended to read as follows:

(1) Every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility, shall provide, upon request, refueling service to disabled drivers, unaccompanied by passengers capable of safely providing refueling service, of vehicles which display a disabled person's license plate(~~(-decal)~~) or (~~(special-card)~~) placard issued by the department of licensing. The price charged for the motor vehicle fuel in such a case shall be no greater than that which the facility otherwise would charge the public generally to purchase motor vehicle fuel without refueling service. This section does not require a facility to provide disabled drivers with services, including but not limited to checking oil or cleaning windshields, other than refueling services.

(2) This section does not apply to:

(a) Exclusive self-service gas stations which have remotely controlled gas pumps and which never provide pump island service; and

(b) Convenience stores which sell gasoline, which have remotely controlled gas pumps and which never provide pump island service.

(3) Any person who, as a responsible managing individual setting service policy of a station or facility or as an employee acting independently against set service policy, acts in violation of this section is guilty of a misdemeanor. This subsection shall be enforced by the prosecuting attorney.

(4) The human rights commission shall, upon the filing of a verified written complaint by any person, investigate the actions of any person, firm, partnership, association, trustee, or corporation alleged to have violated this section. The complaint shall be in the form prescribed by the commission. The commission may, upon its own motion, issue complaints and conduct investigations of alleged violations of this section.

RCW 49.60.240 through 49.60.280 shall apply to complaints under this section.

(5) In addition to those matters referred pursuant to subsection (3) of this section, the prosecuting attorney may investigate and prosecute alleged violations of this section.

(6) Any person who intentionally displays a license plate(~~(-decal)~~) or (~~(special-card)~~) placard which is invalid, or which was not lawfully issued to that person, for the purpose of obtaining refueling service under subsection (1) of this section shall be subject to a civil fine of one hundred dollars for each such violation.

(7) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person, firm, partnership, association, trustee, or corporation which operates a gasoline service station, or other facility which offers gasoline or other motor vehicle fuel for sale to the public from such a facility.

(8) A notice setting forth the provisions of this section shall be provided by the department of licensing to every person who is issued a disabled person's license plate(~~(-decal,)~~) or (~~(special card)~~) placard.

(9) For the purposes of this section, "refueling service" means the service of pumping motor vehicle fuel into the fuel tank of a motor vehicle.

(10) Nothing in this section limits or restricts the rights or remedies provided under chapter 49.60 RCW.

**Sec. 18.** RCW 82.36.030 and 1993 c 54 s 2 are each amended to read as follows:

Every distributor shall on or before the twenty-fifth day of each calendar month file, on forms furnished by the department, a statement signed by the distributor or his authorized agent showing the total number of gallons of motor vehicle fuel sold, distributed, or used by such distributor within this state during the preceding calendar month and, for counties within which an additional excise tax on motor vehicle fuel has been levied by that jurisdiction under RCW 82.80.010, showing the total number of gallons of motor vehicle fuel sold, distributed, or used by the distributor within the boundaries of the county during the preceding calendar month.

~~(If any distributor fails to file such report, the department shall proceed forthwith to determine from the best available sources, the amount of motor vehicle fuel sold, distributed, or used by such distributor for the unreported period, and said determination shall be presumed to be correct for that period until proved by competent evidence to be otherwise. The department shall immediately assess the excise tax in the amount so determined, adding thereto a penalty of up to ten percent for failure to report. Such penalty shall be cumulative of other penalties herein provided. All statements filed with the department, as required in this section, shall be public records.~~

~~If any distributor establishes by a fair preponderance of evidence that his or her failure to file a report by the due date was attributable to reasonable cause and was not intentional or willful, the department may waive the penalty imposed by this section:))~~

**Sec. 19.** RCW 82.36.060 and 1973 c 96 s 1 are each amended to read as follows:

Every person, before becoming a distributor or continuing in business as a distributor, shall make an application to the department for a license authorizing the applicant to engage in business as a distributor. Applications for such licenses shall be made to the department on forms to be furnished by the department(~~(-and shall be accompanied by a fee of ten dollars)~~).

Before granting any license authorizing any person to engage in business as a distributor, the department shall require applicant to file with the department, in such form as shall be prescribed by the department, a corporate surety bond duly executed by the applicant as principal, payable to the state and conditioned for faithful performance of all the requirements of this chapter, including the

payment of all taxes, penalties, and other obligations arising out of this chapter. The total amount of the bond or bonds, required of any distributor shall be fixed by the department and may be increased or reduced by the department at any time subject to the limitations herein provided. In fixing the total amount of the bond or bonds required of any distributor, the department shall require a bond or bonds equivalent in total amount to twice the estimated monthly excise tax determined in such manner as the department may deem proper. If at any time the estimated excise tax to become due during the succeeding month amounts to more than fifty percent of the established bond, the department shall require additional bonds or securities to maintain the marginal ratio herein specified or shall demand excise tax payments to be made weekly or semimonthly to meet the requirements hereof.

In lieu of a bond in excess of five thousand dollars the distributor may file with the department a property statement setting forth a complete description of all his property and the values thereof, and showing the amount of any indebtedness or encumbrance thereon to the end that the department may ascertain whether or not the distributor can be compelled to respond in twice the amount of the taxes due or to become due hereunder. If the department determines that the distributor can be compelled to respond in twice the amount of the tax the department may accept such statement in lieu of a bond in excess of five thousand dollars. The department may at any time demand from the distributor a new property statement and may at any time if the department deems the property of the distributor insufficient to secure the payment of twice the amount of the taxes require the distributor to furnish a bond in such amount as will secure the payment of twice the amount of the taxes.

The total amount of the bond or bonds required of any distributor shall never be less than five thousand dollars nor more than fifty thousand dollars.

No recoveries on any bond or the execution of any new bond shall invalidate any bond and no revocation of any license shall effect the validity of any bond but the total recoveries under any one bond shall not exceed the amount of the bond.

In lieu of any such bond or bonds in total amount as herein fixed, a distributor may deposit with the state treasurer, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United States or bonds or other obligations of the United States, the state, or any county of the state, of an actual market value not less than the amount so fixed by the department.

Any surety on a bond furnished by a distributor as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of thirty days from the date upon which such surety has lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the thirty day period. The department shall promptly, upon receiving any such

request, notify the distributor who furnished the bond; and unless the distributor, on or before the expiration of the thirty day period, files a new bond, or makes a deposit in accordance with the requirements of this section, the department shall forthwith cancel the distributor's license. Whenever a new bond is furnished by a distributor, the department shall cancel his old bond as soon as the department and the attorney general are satisfied that all liability under the old bond has been fully discharged.

The department may require a distributor to give a new or additional surety bond or to deposit additional securities of the character specified in this section if, in its opinion, the security of the surety bond theretofore filed by such distributor, or the market value of the properties deposited as security by the distributor, shall become impaired or inadequate; and upon the failure of the distributor to give such new or additional surety bond or to deposit additional securities within thirty days after being requested so to do by the department, the department shall forthwith cancel his license.

**Sec. 20.** RCW 82.36.070 and 1973 c 96 s 2 are each amended to read as follows:

The application in proper form having been accepted for filing, the filing fee paid, and the bond or other security having been accepted and approved, the department shall issue to the applicant a license to transact business as a distributor in the state, and such license shall be valid until canceled or revoked.

The license so issued by the department shall not be assignable, and shall be valid only for the distributor in whose name issued.

The department shall keep and file all applications and bonds with an alphabetical index thereof, together with a record of all licensed distributors.

Each distributor shall be assigned a license number upon qualifying for a license hereunder, and the department shall issue to each such licensee a license certificate which shall be displayed conspicuously by the distributor at his principal place of business. ~~((The department shall also issue separate license cards for each bulk storage plant operated by such distributor. Such license cards shall indicate the number so assigned the distributor, the location of the storage plant for which the card is used, and such other information as the department may prescribe. The license card shall be conspicuously displayed at each bulk storage plant to which it is assigned, and it shall be unlawful for any distributor to operate or maintain a bulk storage plant in this state for the purpose of storing motor fuel without displaying such license card as herein provided. Bulk plant licenses shall be continuing until canceled or revoked. The distributor shall report on forms prescribed by the department any change in the number or capacity of bulk storage plants operated or maintained at the time such change occurs.~~

~~In the event an application for a license to transact business as a distributor is filed by any person whose license has heretofore been canceled for cause by the department, or if the department is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge~~

~~for the real person in interest whose license has heretofore been canceled for cause, the department, after a hearing, of which the applicant shall be given five days' notice in writing and at which the applicant may appear in person or by counsel and present testimony, may refuse to issue such a person a license to transact business as a distributor.)~~ The department may refuse to issue or may revoke a motor vehicle fuel distributor license, to a person: (1) Who formerly held a motor vehicle fuel distributor's license that, before the time of filing for application, has been revoked or canceled for cause; (2) who is a subterfuge for the real party in interest whose license has been revoked or canceled for cause; (3) who, as an individual licensee or officer, director, owner, or managing employee of a nonindividual licensee, has had a motor vehicle fuel distributor license revoked or canceled for cause; (4) who has an unsatisfied debt to the state assessed under either chapter 82.36, 82.37, 82.38, 82.42, or 46.87 RCW; or (5) upon other sufficient cause being shown. Before such a refusal or revocation, the department shall grant the applicant a hearing and shall give the applicant at least twenty days' written notice of the time and place of the hearing.

The department may, in the exercise of reasonable discretion, suspend a motor vehicle distributor license at any time before and pending such a hearing for unpaid taxes or reasonable cause.

**Sec. 21.** RCW 82.36.120 and 1991 c 339 s 3 are each amended to read as follows:

If a distributor is delinquent in the payment of an obligation imposed under this chapter, the department may give notice of the amount of the delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to such distributor, or owing any debts to such distributor at the time of receipt by them of such notice. Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice. A person so notified shall neither transfer nor make any other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. All persons so notified must, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall deliver upon demand the credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against the person for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

**Sec. 22.** RCW 82.38.020 and 1988 c 122 s 1 are each amended to read as follows:

As hereinafter used in this chapter:

(1) "Person" means every natural person, fiduciary, association or corporation. The term "person" as applied to an association means and includes the partners or members thereof, and as applied to corporations, the officers thereof.

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

(3) "Highway" means every way or place open to the use of the public, as a matter of right, for the purpose of vehicular travel.

(4) "Motor vehicle" means every self-propelled vehicle designed for operation upon land utilizing special fuel as the means of propulsion.

(5) "Special fuel" means and includes all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel as defined in chapter 82.36 RCW.

(6) "Bulk storage" means the placing of special fuel by a special fuel dealer into a receptacle other than the fuel supply tank of a motor vehicle.

(7) "Special fuel dealer" means any person engaged in the business of delivering special fuel into the fuel supply tank or tanks of a motor vehicle not then owned or controlled by him, or into bulk storage facilities for subsequent use in a motor vehicle. For this purpose the term "fuel supply tank or tanks" does not include cargo tanks even though fuel is withdrawn directly therefrom for propulsion of the vehicle.

(8) "Special fuel user" means any person purchasing special fuel into bulk storage without payment of the special fuel tax for subsequent use in a motor vehicle, or any person engaged in interstate commercial operation of motor vehicles any part of which is within this state.

~~(9) ("Special fuel supplier" means any person engaged in the business of selling special fuel where delivery thereof is made other than, or in addition to, the manner prescribed under the definition of "special fuel dealer", but does not include any person making retail sales of special fuel exclusively for heating purposes.~~

~~(10))~~ "Service station" means any location at which fueling of motor vehicles is offered to the general public.

~~((11))~~ (10) "Unbonded service station" means any service station at which an unbonded special fuel dealer regularly makes sales of special fuel by means of delivery thereof into the fuel supply tanks of motor vehicles.

~~((12))~~ (11) "Bond" means: (a) A bond duly executed by such special fuel dealer or special fuel user as principal with a corporate surety qualified under the provisions of chapter 48.28 RCW which bond shall be payable to the state of Washington conditioned upon faithful performance of all requirements of this chapter, including the payment of all taxes, penalties, and other obligations of such dealer, arising out of this chapter; or (b) a deposit with the state treasurer by the special fuel dealer or special fuel user, under such terms and conditions as the department may prescribe, a like amount of lawful money of the United



States or bonds or other obligations of the United States, the state of Washington, or any county of said state, of an actual market value not less than the amount so fixed by the department; or (c) such other instruments as the department may determine and prescribe by rule to protect the interests of the state and to insure compliance of the requirements of this chapter.

~~((13))~~ (12) "Lessor" means any person (a) whose principal business is the bona fide leasing or renting of motor vehicles without drivers for compensation to the general public, and (b) who maintains established places of business and whose lease or rental contracts require such motor vehicles to be returned to the established places of business.

~~((14))~~ (13) "Natural gas" means naturally occurring mixtures of hydrocarbon gases and vapors consisting principally of methane, whether in gaseous or liquid form.

~~((15))~~ (14) "Standard pressure and temperature" means fourteen and seventy-three hundredths pounds of pressure per square inch at sixty degrees Fahrenheit.

**Sec. 23.** RCW 82.38.090 and 1993 c 54 s 6 are each amended to read as follows:

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

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

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

portable slip tanks for nonhighway use without payment of the special fuel tax. Persons utilizing special fuel for heating purposes only are not required to be licensed.

Special fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight not exceeding twenty-six thousand pounds are not required to be licensed. Special fuel users operating motor vehicles in interstate commerce having two axles and a gross vehicle weight or registered gross vehicle weight exceeding twenty-six thousand pounds, or having three or more axles regardless of weight, or a combination of vehicles, when the combination exceeds twenty-six thousand pounds gross vehicle weight, must comply with the licensing and reporting requirements of this chapter. A copy of the license must be carried in each motor vehicle entering this state from another state or province.

**Sec. 24.** RCW 82.38.130 and 1979 c 40 s 9 are each amended to read as follows:

The department may revoke the license of any special fuel dealer, (~~special fuel supplier,~~) or special fuel user for any of the grounds constituting cause for denial of a license set forth in RCW 82.38.120 or for other reasonable cause. Before revoking such license the department shall notify the licensee to show cause within twenty days of the date of the notice why the license should not be revoked: PROVIDED, That at any time prior to and pending such hearing the department may, in the exercise of reasonable discretion, suspend such license.

The department shall cancel any license to act as a special fuel dealer, (~~a special fuel supplier,~~) or a special fuel user immediately upon surrender thereof by the holder.

~~(It shall be presumed that a special fuel dealer's bond is in effect until such time as the department notifies all licensed special fuel suppliers to the contrary by mailing to their current address of record.)~~

Any surety on a bond furnished by a special fuel dealer or special fuel user as provided herein shall be released and discharged from any and all liability to the state accruing on such bond after the expiration of forty-five days from the date which such surety shall have lodged with the department a written request to be released and discharged, but this provision shall not operate to relieve, release, or discharge the surety from any liability already accrued or which shall accrue before the expiration of the forty-five day period. The department shall promptly, upon receiving any such request, notify the special fuel dealer or special fuel user who furnished the bond, and unless the special fuel dealer or special fuel user shall, on or before the expiration of the forty-five day period, file a new bond, in accordance with the requirements of this section, or make a deposit in lieu thereof as provided in (~~subsection (12) of~~) RCW 82.38.020(11), the department forthwith shall cancel the special fuel dealer's or special fuel user's license.

The department may require a special fuel dealer or special fuel user to give a new or additional surety bond or to deposit additional securities of the

character specified in (~~subsection (12) of~~) RCW 82.38.020(11) if, in its opinion, the security of the surety bond therefor filed by such special fuel dealer or special fuel user, or the market value of the properties deposited as security by such special fuel dealer or special fuel user, shall become impaired or inadequate. Upon failure of the special fuel dealer or special fuel user to give such new or additional surety bond or to deposit additional securities within forty-five days after being requested to do so by the department, or after he shall fail or refuse to file reports and remit or pay taxes at the intervals fixed by the department, the department forthwith shall cancel his or her license.

**Sec. 25.** RCW 82.38.170 and 1991 c 339 s 7 are each amended to read as follows:

(1) If any special fuel dealer or special fuel user fails to pay any taxes collected or due the state of Washington by said dealer or user within the time prescribed by RCW 82.38.150 and 82.38.160, said dealer or user shall pay in addition to such tax a penalty of ten percent of the amount thereof.

(2) If it be determined by the department that the tax reported by any special fuel dealer or special fuel user is deficient it (~~shall~~) may proceed to assess the deficiency on the basis of information available to it and there shall be added to this deficiency a penalty of ten percent of the amount of the deficiency.

(3) If any special fuel dealer or special fuel user, whether or not he or she is licensed as such, fails, neglects, or refuses to file a special fuel tax report, the department (~~shall~~) may, on the basis of information available to it, determine the tax liability of the special fuel dealer or the special fuel user for the period during which no report was filed, and to the tax as thus determined, the department shall add the penalty and interest provided in subsection (2) of this section. An assessment made by the department pursuant to this subsection or to subsection (2) of this section shall be presumed to be correct, and in any case where the validity of the assessment is drawn in question, the burden shall be on the person who challenges the assessment to establish by a fair preponderance of the evidence that it is erroneous or excessive as the case may be.

(4) If any special fuel dealer or special fuel user shall establish by a fair preponderance of evidence that his or her failure to file a report or pay the proper amount of tax within the time prescribed was due to reasonable cause and was not intentional or willful, the department may waive the penalty prescribed in subsections (1), (2), and (3) of this section.

(5) If any special fuel dealer or special fuel user shall file a false or fraudulent report with intent to evade the tax imposed by this chapter, there shall be added to the amount of deficiency determined by the department a penalty equal to twenty-five percent of the deficiency, in addition to the penalty provided in subsection (2) of this section and all other penalties prescribed by law.

(6) Any fuel tax, penalties, and interest payable under this chapter shall bear interest at the rate of one percent per month, or fraction thereof, from the first day of the calendar month after the amount or any portion thereof should have been paid until the date of payment: PROVIDED, That the department may

waive the interest when it determines that the cost of processing the collection of the interest exceeds the amount of interest due.

(7) Except in the case of violations of filing a false or fraudulent report, if the department deems mitigation of penalties and interest to be reasonable and in the best interests of carrying out the purpose of this chapter, it may mitigate such assessments upon whatever terms the department deems proper, giving consideration to the degree and extent of the lack of records and reporting errors. The department may ascertain the facts regarding recordkeeping and payment penalties in lieu of more elaborate proceedings under this chapter.

(8) Except in the case of a fraudulent report or of neglect or refusal to make a report, every deficiency shall be assessed under subsection (2) of this section within three years from the twenty-fifth day of the next succeeding calendar month following the reporting period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later.

(9) Any special fuel dealer or special fuel user against whom an assessment is made under the provisions of subsections (2) or (3) of this section may petition for a reassessment thereof within thirty days after service upon the special fuel dealer or special fuel user of notice thereof. If such petition is not filed within such thirty day period, the amount of the assessment becomes final at the expiration thereof.

If a petition for reassessment is filed within the thirty day period, the department shall reconsider the assessment and, if the special fuel dealer or special fuel user has so requested in his or her petition, shall grant such special fuel dealer or special fuel user an oral hearing and give the special fuel dealer or special fuel user ten days' notice of the time and place thereof. The department may continue the hearing from time to time. The decision of the department upon a petition for reassessment shall become final thirty days after service upon the special fuel dealer or special fuel user of notice thereof.

Every assessment made by the department shall become due and payable at the time it becomes final and if not paid to the department when due and payable, there shall be added thereto a penalty of ten percent of the amount of the tax.

(10) Any notice of assessment required by this section shall be served personally or by mail; if by mail, service shall be made by depositing such notice in the United States mail, postage prepaid addressed to the special fuel dealer or special fuel user at his or her address as the same appears in the records of the department.

(11) Any licensee who has had their special fuel user license, special fuel dealer license, special fuel supplier license, or combination thereof revoked shall pay a one hundred dollar penalty prior to the issuance of a new license.

(12) Any person who, upon audit or investigation by the department, is found to have not paid special fuel taxes as required by this chapter shall be subject to cancellation of all vehicle registrations for vehicles utilizing special

fuel as a means of propulsion. Any unexpired Washington tonnage on the vehicles in question may be transferred to a purchaser of the vehicles upon application to the department who shall hold such tonnage in its custody until a sale of the vehicle is made or the tonnage has expired.

**Sec. 26.** RCW 82.38.220 and 1983 c 242 s 5 are each amended to read as follows:

In the event any special fuel user or special fuel dealer is delinquent in the payment of any obligation imposed under this chapter, the department may give notice of the amount of such delinquency by registered or certified mail to all persons having in their possession or under their control any credits or other personal property belonging to such user or dealer or owing any debts to such user or dealer, at the time of the receipt by them of such notice. Any person so notified shall neither transfer nor make other disposition of such credits, personal property, or debts until the department consents to a transfer or other disposition. All persons so notified must, within twenty days after receipt of the notice, advise the department of any and all such credits, personal property, or debts in their possession, under their control or owing by them, as the case may be, and shall immediately deliver such credits, personal property, or debts to the department or its duly authorized representative to be applied to the indebtedness involved.

Upon service, the notice and order to withhold and deliver constitutes a continuing lien on property of the taxpayer. The department shall include in the caption of the notice to withhold and deliver "continuing lien." The effective date of a notice to withhold and deliver served under this section is the date of service of the notice.

If a person fails to answer the notice within the time prescribed by this section, it is lawful for the court, upon application of the department and after the time to answer the notice has expired, to render judgment by default against ~~((such person))~~ the party named in the notice to withhold and deliver for the full amount claimed by the department in the notice to withhold and deliver, together with costs.

**Sec. 27.** RCW 88.02.125 and 1987 c 149 s 8 are each amended to read as follows:

(1) Vessel dealers shall possess a certificate of ~~((title for each used vessel or))~~ ownership, a manufacturer's statement of origin, a carpenter's certificate, or a factory invoice ~~((with))~~ or other evidence of ownership approved by the department for each ~~((new))~~ vessel in the vessel dealer's inventory unless the vessel for sale is consigned or subject to an inventory security agreement. ~~((Each certificate of title))~~ Evidence of ownership shall be either in the name of the dealer or in the name of the dealer's immediate vendor properly assigned.

(2) A vessel dealer may display and sell consigned vessels or vessels subject to an inventory security agreement if there is a written and signed consignment agreement for each vessel or an inventory security agreement covering all

inventory vessels. The consignment agreement shall include verification by the vessel dealer that ~~((a vessel title or manufacturer's statement of origin))~~ evidence of ownership by the consignor exists and its location, the name and address of the registered owner, and the legal owner, if any. Vessels that are subject to an inventory security interest shall be supported with ~~((a certificate of title or manufacturer's statement of origin))~~ evidence of ownership that is in the dealer's possession or the possession of the inventory security party. Upon payment of the debt secured for that vessel, the secured party shall deliver the ~~((certificate of title or the manufacturer's statement of origin))~~ ownership document, appropriately released, to the dealer. It is the vessel dealer's responsibility to ensure that ~~((title))~~ ownership documents are available for ~~((title))~~ ownership transfer upon the sale of the vessel.

(3) Following the retail sale of any vessel, the dealer shall promptly make application and execute the assignment and warranty of the certificate of ~~((title))~~ ownership. Such assignment shall show any secured party holding a security interest created at the time of sale. The dealer shall deliver the certificate of ~~((title))~~ ownership and application for registration to the department.

NEW SECTION. Sec. 28. RCW 46.16.080 and 1986 c 18 s 6, 1975 c 25 s 17, & 1961 c 12 s 46.16.080 are each repealed.

NEW SECTION. Sec. 29. Sections 8 and 28 of this act take effect July 1, 1994.

Passed the House February 14, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 263

[Substitute House Bill 2516]

### DAMAGES CAUSED BY TRESPASSING ANIMALS—LIABILITY MODIFIED

AN ACT Relating to limiting liability for damage resulting from wildlife-induced fence destruction; amending RCW 16.04.015 and 16.24.140; and adding a new section to chapter 16.04 RCW.

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

**Sec. 1.** RCW 16.04.015 and 1989 c 286 s 2 are each amended to read as follows:

Except as provided under section 3 of this act, whenever any animals trespass as provided in RCW 16.04.010, the owner or person having possession of such animal shall be liable for all damages the owner or occupant may sustain by reason of such trespass.

**Sec. 2.** RCW 16.24.140 and 1989 c 286 s 13 are each amended to read as follows:

Upon claiming any animal impounded under this chapter, the owner shall pay all costs of transportation, advertising, legal proceedings, and keep of the animal, except as provided under section 3 of this act.

**NEW SECTION. Sec. 3.** A new section is added to chapter 16.04 RCW to read as follows:

If damages are caused by a trespassing animal, neither the state nor the owner of the animal shall be liable if the owner of the animal can prove that the trespass is due to damage caused by wildlife to a lawful fence and, in a stock restricted area, the owner of the animal did not have a reasonable opportunity to repair the fence. The state shall pay all costs of transportation, advertising, legal proceedings, and keep of an animal that has been restrained pursuant to RCW 16.04.010. Claims filed under this section shall be processed according to the procedures under chapter 4.92 RCW.

Passed the House February 11, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 264

[House Bill 2590]

### DEPARTMENT OF FISH AND WILDLIFE—OBSOLETE NOMENCLATURE CORRECTED

AN ACT Relating to obsolete references; amending RCW 9.41.090, 9.41.310, 10.93.020, 15.85.010, 15.85.060, 16.68.190, 17.21.230, 19.02.050, 36.61.040, 36.61.050, 38.52.420, 39.04.150, 43.19.450, 43.21A.170, 43.21J.030, 43.51.340, 43.51.432, 43.51.456, 43.51.675, 43.51.943, 43.52.350, 43.63A.247, 43.63A.260, 43.81.010, 43.82.010, 43.831.188, 43.98B.030, 43.99.110, 43.220.020, 43.220.090, 43.220.120, 46.09.130, 46.09.170, 46.10.130, 46.10.220, 69.04.935, 69.30.070, 70.104.080, 70.105.020, 72.63.020, 72.63.030, 75.10.220, 75.28.770, 75.54.070, 76.09.040, 76.09.050, 76.09.180, 76.48.040, 77.04.030, 77.12.020, 77.12.031, 77.17.010, 77.17.020, 77.17.030, 79.01.805, 79.01.815, 79.66.080, 79.70.030, 79.70.070, 79.70.080, 79.72.020, 79.81.030, 79.94.390, 79.94.400, 79.96.030, 79.96.040, 79.96.050, 79.96.100, 79.96.110, 79.96.130, 79.96.906, 80.50.030, 84.34.055, 86.26.040, 86.26.050, 87.84.061, 88.12.055, 88.12.305, 90.03.280, 90.03.290, 90.03.360, 90.22.010, 90.22.020, 90.24.030, 90.24.060, 90.38.040, 90.48.170, 90.48.368, 90.48.400, 90.56.100, 90.56.110, 90.62.020, 90.70.045, and 90.70.065; reenacting and amending RCW 41.06.070, 41.26.030, 43.31.621, and 90.03.247; decodifying RCW 43.220.140; and providing an effective date.

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

**Sec. 1.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no commercial seller shall deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the commercial seller has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (4) of this section; or

(b) The seller is notified in writing by the chief of police of the municipality or the sheriff of the county that the purchaser meets the requirements of RCW 9.41.040 and that the application to purchase is granted; or

(c) Five consecutive days including Saturday, Sunday and holidays have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (4) of this section, and, when delivered, said pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

(2) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the seller shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the seller so that the hold may be released if the warrant was for a crime other than a crime of violence.

(3) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for a crime of violence, or (e) an arrest for a crime of violence if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. An applicant shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(4) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the seller an application containing his or her full name, address, place of birth, and the date and hour of the application; the applicant's driver's license number or state identification card number; and a description of the weapon including, the make, model, caliber and manufacturer's number; and a statement that the purchaser is eligible to own a pistol under RCW 9.41.040. The application shall contain a warning substantially as follows:

**CAUTION:** Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited



by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The seller shall, by the end of the business day, sign and attach his or her address and deliver the original of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the seller is a resident. The seller shall deliver the pistol to the purchaser following the period of time specified in this section unless the seller is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser fails to meet the requirements specified in RCW 9.41.040. The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol.

**Sec. 2.** RCW 9.41.310 and 1988 c 36 s 4 are each amended to read as follows:

After a public hearing, the department of fish and wildlife shall publish a pamphlet on firearms safety and the legal limits of the use of firearms. The pamphlet shall include current information on firearms laws and regulations and state preemption of local firearms laws. This pamphlet may be used in the department's hunter safety education program and shall be provided to the department of licensing for distribution to firearms dealers and persons authorized to issue concealed pistol licenses. The department of fish and wildlife shall reimburse the department of licensing for costs associated with distribution of the pamphlet.

**Sec. 3.** RCW 10.93.020 and 1988 c 36 s 5 are each amended to read as follows:

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

(1) "General authority Washington law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, as distinguished from a limited authority Washington law enforcement agency, and any other unit of government expressly designated by statute as a general authority Washington law enforcement agency. The

Washington state patrol is a general authority Washington law enforcement agency.

(2) "Limited authority Washington law enforcement agency" means any agency, political subdivision, or unit of local government of this state, and any agency, department, or division of state government, having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, (~~(fisheries)~~) fish and wildlife, and social and health services, the state gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

(3) "General authority Washington peace officer" means any full-time, fully compensated and elected, appointed, or employed officer of a general authority Washington law enforcement agency who is commissioned to enforce the criminal laws of the state of Washington generally.

(4) "Limited authority Washington peace officer" means any full-time, fully compensated officer of a limited authority Washington law enforcement agency empowered by that agency to detect or apprehend violators of the laws in some or all of the limited subject areas for which that agency is responsible. A limited authority Washington peace officer may be a specially commissioned Washington peace officer if otherwise qualified for such status under this chapter.

(5) "Specially commissioned Washington peace officer", for the purposes of this chapter, means any officer, whether part-time or full-time, compensated or not, commissioned by a general authority Washington law enforcement agency to enforce some or all of the criminal laws of the state of Washington, who does not qualify under this chapter as a general authority Washington peace officer for that commissioning agency, specifically including reserve peace officers, and specially commissioned full-time, fully compensated peace officers duly commissioned by the states of Oregon or Idaho or any such peace officer commissioned by a unit of local government of Oregon or Idaho. A reserve peace officer is an individual who is an officer of a Washington law enforcement agency who does not serve such agency on a full-time basis but who, when called by the agency into active service, is fully commissioned on the same basis as full-time peace officers to enforce the criminal laws of the state.

(6) "Federal peace officer" means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

(7) "Agency with primary territorial jurisdiction" means a city or town police agency which has responsibility for police activity within its boundaries; or a county police or sheriff's department which has responsibility with regard to police activity in the unincorporated areas within the county boundaries; or a statutorily authorized port district police agency or four-year state college or

university police agency which has responsibility for police activity within the statutorily authorized enforcement boundaries of the port district, state college, or university.

(8) "Primary commissioning agency" means (a) the employing agency in the case of a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer, and (b) the commissioning agency in the case of a specially commissioned Washington peace officer (i) who is performing functions within the course and scope of the special commission and (ii) who is not also a general authority Washington peace officer, a limited authority Washington peace officer, an Indian tribal peace officer, or a federal peace officer.

(9) "Primary function of an agency" means that function to which greater than fifty percent of the agency's resources are allocated.

(10) "Mutual law enforcement assistance" includes, but is not limited to, one or more law enforcement agencies aiding or assisting one or more other such agencies through loans or exchanges of personnel or of material resources, for law enforcement purposes.

**Sec. 4.** RCW 15.85.010 and 1985 c 457 s 1 are each amended to read as follows:

The legislature declares that aquatic farming provides a consistent source of quality food, offers opportunities of new jobs, increased farm income stability, and improves balance of trade.

The legislature finds that many areas of the state of Washington are scientifically and biologically suitable for aquaculture development, and therefore the legislature encourages promotion of aquacultural activities, programs, and development with the same status as other agricultural activities, programs, and development within the state.

The legislature finds that aquaculture should be considered a branch of the agricultural industry of the state for purposes of any laws that apply to or provide for the advancement, benefit, or protection of the agriculture industry within the state.

The legislature further finds that in order to ensure the maximum yield and quality of cultured aquatic products, the department of (~~fisheries~~) fish and wildlife should provide diagnostic services that are workable and proven remedies to aquaculture disease problems.

It is therefore the policy of this state to encourage the development and expansion of aquaculture within the state. It is also the policy of this state to protect wildstock fisheries by providing an effective disease inspection and control program and prohibiting the release of salmon or steelhead trout by the private sector into the public waters of the state and the subsequent recapture of such species as in the practice commonly known as ocean ranching.

**Sec. 5.** RCW 15.85.060 and 1988 c 36 s 6 are each amended to read as follows:

The director shall establish identification requirements for private sector cultured aquatic products to the extent that identifying the source and quantity of the products is necessary to permit the department(~~(s of fisheries))~~ of fish and wildlife to administer and enforce Titles 75 and 77 RCW effectively. The rules shall apply only to those private sector cultured aquatic products the transportation, sale, processing, or other possession of which would otherwise be required to be licensed under Title 75 or 77 RCW if they were not cultivated by aquatic farmers. The rules shall apply to the transportation or possession of such products on land other than aquatic lands and may require that they be: (1) Placed in labeled containers or accompanied by bills of lading or sale or similar documents identifying the name and address of the producer of the products and the quantity of the products governed by the documents; or (2) both labeled and accompanied by such documents.

The director shall consult with the director(~~(s of the departments))~~ of (~~(fisheries))~~ fish and wildlife to ensure that such rules enable the department(~~(s of fisheries))~~ of fish and wildlife to enforce the programs administered under those titles. If rules adopted under chapter 69.30 RCW satisfy the identification required under this section for shellfish, the director shall not establish different shellfish identification requirements under this section.

**Sec. 6.** RCW 16.68.190 and 1988 c 36 s 7 are each amended to read as follows:

Nothing in this chapter shall prohibit the (~~(state))~~ department of fish and wildlife from using the carcasses of dead animals for trap bait in their regular trapping operations.

**\*Sec. 7.** *RCW 17.21.230 and 1989 c 380 s 54 are each amended to read as follows:*

*There is hereby created a pesticide advisory board consisting of three licensed pesticide applicators residing in the state (one shall be licensed to operate ground apparatus, one shall be licensed to operate aerial apparatus, and one shall be licensed for structural pest control), one licensed pest control consultant, one licensed pesticide dealer manager, one entomologist in public service, one toxicologist in public service, one pesticide coordinator from Washington State University, one member from the agricultural chemical industry, one member from the food processing industry, one member representing agricultural labor, one health care practitioner in private practice, one member from the environmental community, and two producers of agricultural crops or products on which pesticides are applied or which may be affected by the application of pesticides. Such members shall be appointed by the governor for terms of four years and may be appointed for successive four year terms at the discretion of the governor. The governor may remove any member of the pesticide advisory board prior to the expiration of his or her term of appointment for cause. The pesticide advisory board shall also include the following nonvoting members: The director of the department of*

*labor and industries or a duly authorized representative, the environmental health specialist from the division of health of the department of social and health services, the supervisor of the chemical division of the department, and the directors, or their appointed representatives, of the departments of fish and wildlife, ((fisheries,)) natural resources, and ecology.*

\*Sec. 7 was vetoed, see message at end of chapter.

**Sec. 8.** RCW 19.02.050 and 1989 1st ex.s. c 9 s 317 are each amended to read as follows:

(1) The legislature hereby directs the full participation by the following agencies in the implementation of this chapter:

- (a) Department of agriculture;
- (b) Secretary of state;
- (c) Department of social and health services;
- (d) Department of revenue;
- (e) Department of ~~((fisheries,))~~ fish and wildlife;
- (f) Department of employment security;
- (g) Department of labor and industries;
- (h) Department of community, trade, and economic development;
- (i) Liquor control board;
- (j) Department of health;
- (k) Department of licensing;
- (l) Utilities and transportation commission; and
- (m) Other agencies as determined by the governor.

**Sec. 9.** RCW 36.61.040 and 1988 c 36 s 9 are each amended to read as follows:

Notice of the public hearing shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed lake management district, the date of the first publication to be at least fifteen days prior to the date fixed for the public hearing by the resolution of intention. Notice of the public hearing shall also be given to the owner or reputed owner of any lot, tract, parcel of land, or other property within the proposed lake management district by mailing the notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county assessor at the address shown thereon. Notice of the public hearing shall also be mailed to the departments of ~~((fisheries,))~~ fish and wildlife(¿) and ecology at least fifteen days before the date fixed for the public hearing.

Notices of the public hearing shall: (1) Refer to the resolution of intention; (2) designate the proposed lake management district by number; (3) set forth a proposed plan describing: (a) The nature of the proposed lake improvement or maintenance activities; (b) the amount of special assessments or rates and charges proposed to be raised by the lake management district; (c) if special assessments are proposed to be imposed, whether the special assessments will be imposed

annually for the duration of the lake management district, or the full special assessments will be payable at one time, with the possibility of periodic installments being paid and lake management bonds being issued, or both; (d) if rates and charges are proposed to be imposed, the annual amount of revenue proposed to be collected and whether revenue bonds payable from the rates and charges are proposed to be issued; and (e) the proposed duration of the lake management district; and (4) indicate the date, time, and place of the public hearing designated in the resolution of intention.

In the case of the notice sent to each owner or reputed owner by mail, the notice shall set forth the estimated amount of the cost of the lake improvement or maintenance activities to be borne by special assessment, or annual special assessments, or rates and charges on the lot, tract, parcel of land, or other property owned by the owner or reputed owner.

If the county legislative authority has designated a committee of itself or an officer to hear complaints and make recommendations to the full county legislative authority, as provided in RCW 36.61.060, the notice shall also describe this additional step before the full county legislative authority may adopt a resolution creating the lake management district.

**Sec. 10.** RCW 36.61.050 and 1988 c 36 s 10 are each amended to read as follows:

The county legislative authority shall hold a public hearing on the proposed lake management district at the date, time, and place designated in the resolution of intention.

At this hearing the county legislative authority shall hear objections from any person affected by the formation of the lake management district. Representatives of the departments of (~~(fisheries,)~~) fish and wildlife(~~(,)~~) and ecology shall be afforded opportunities to make presentations on and comment on the proposal. Members of the public shall be afforded an opportunity to comment on the proposal. The county legislative authority must consider recommendations provided to it by the departments of (~~(fisheries,)~~) fish and wildlife(~~(,)~~) and ecology. The public hearing may be extended to other times and dates declared at the public hearing. The county legislative authority may make such changes in the boundaries of the lake management district or such modification in plans for the proposed lake improvement or maintenance activities as it deems necessary. The county legislative authority may not change boundaries of the lake management district to include property that was not included previously without first passing an amended resolution of intention and giving new notice to the owners or reputed owners of property newly included in the proposed lake management district in the manner and form and within the time provided for the original notice. The county legislative authority shall not alter the plans for the proposed lake improvement or maintenance activities to result in an increase in the amount of money proposed to be raised, and shall not increase the amount of money proposed to be raised, without first passing an

amended resolution of intention and giving new notice to property owners in the manner and form and within the time provided for the original notice.

**Sec. 11.** RCW 38.52.420 and 1988 c 36 s 11 are each amended to read as follows:

(1) The department of community, trade, and economic development, in consultation with appropriate federal agencies, the departments of natural resources, fish and wildlife, (~~(fisheries,)~~) and ecology, representatives of local government, and any other person the director may deem appropriate, shall develop a model contingency plan, consistent with other plans required for hazardous materials by federal and state law, to serve as a draft plan for local governments which may be incorporated into the state and local emergency management plans.

(2) The model contingency plan shall:

(a) Include specific recommendations for pollution control facilities which are deemed to be most appropriate for the control, collection, storage, treatment, disposal, and recycling of oil and other spilled material and furthering the prevention and mitigation of such pollution;

(b) Include recommendations for the training of local personnel consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(c) Suggest cooperative training exercises between the public and private sector consistent with other training proposed, funded, or required by federal or state laws for hazardous materials;

(d) Identify federal and state laws requiring contingency or management plans applicable or related to prevention of pollution, emergency response capabilities, and hazardous waste management, together with a list of funding sources that local governments may use in development of their specific plans;

(e) Promote formal agreements between the department of community, trade, and economic development and local entities for effective spill response; and

(f) Develop policies and procedures for the augmentation of emergency services and agency spill response personnel through the use of volunteers; PROVIDED, That no contingency plan may require the use of volunteers by a responding responsible party without that party's consent.

**Sec. 12.** RCW 39.04.150 and 1993 c 379 s 112 are each amended to read as follows:

(1) As used in this section, "agency" means the department of general administration, (~~(the department of fisheries,)~~) the department of fish and wildlife, and the state parks and recreation commission.

(2) In addition to any other power or authority that an agency may have, each agency, alone or in concert, may establish a small works roster consisting of all qualified contractors who have requested to be included on the roster.

(3) The small works roster may make distinctions between contractors based on the geographic areas served and the nature of the work the contractor is

qualified to perform. At least once every year, the agency shall advertise in a newspaper of general circulation the existence of the small works roster and shall add to the roster those contractors who request to be included on the roster.

(4) Construction, repair, or alteration projects estimated to cost less than fifty thousand dollars, or less than one hundred thousand dollars for projects managed by the department of general administration for community colleges and technical colleges, as defined under chapter 28B.50 RCW, are exempt from the requirement that the contracts be awarded after advertisement and competitive bid as defined by RCW 39.04.010. In lieu of advertisement and competitive bid, the agency shall solicit at least five quotations, confirmed in writing, from contractors chosen by random number generated by computer from the contractors on the small works roster for the category of job type involved and shall award the work to the party with the lowest quotation or reject all quotations. If the agency is unable to solicit quotations from five qualified contractors on the small works roster for a particular project, then the project shall be advertised and competitively bid. The agency shall solicit quotations randomly from contractors on the small works roster in a manner which will equitably distribute the opportunity for these contracts among contractors on the roster: PROVIDED, That whenever possible, the agency shall invite at least one proposal from a minority contractor who shall otherwise qualify to perform such work. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone request.

(5) The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount for bidding is contrary to public policy and is prohibited.

(6) The director of general administration shall adopt by rule a procedure to prequalify contractors for inclusion on the small works roster. Each agency shall follow the procedure adopted by the director of general administration. No agency shall be required to make available for public inspection or copying under chapter 42.17 RCW financial information required to be provided by the prequalification procedure.

(7) An agency may adopt by rule procedures to implement this section which shall not be inconsistent with the procedures adopted by the director of the department of general administration pursuant to subsection (6) of this section.

**Sec. 13.** RCW 41.06.070 and 1993 sp.s. c 2 s 15 and 1993 c 379 s 306 are each reenacted and 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, legislative budget 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((7)) 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) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules adopted by the Washington personnel resources board pursuant to RCW 41.06.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part time agency vendors employed by the liquor control board when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise, or services as a self-sustaining private retail business;

(x) 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;

(y) 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;

(z) All employees of the marine employees' commission;

(aa) 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 shall expire on June 30, 1997.

(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) 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 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 stating the reasons for requesting such exemptions. The Washington personnel resources board shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the board determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the Washington personnel resources board 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 Washington personnel resources board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted under subsections (1) (x) and (y) and (2) of this section, together with the reasons for such exemptions.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel

listed in subsections (1) (j) through (v) and (2) of this section, shall be determined by the Washington personnel resources board.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

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. 14.** RCW 41.26.030 and 1993 c 502 s 1 and 1993 c 322 s 1 are each reenacted and amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the "Washington law enforcement officers' and fire fighters' retirement system" provided herein.

(2)(a) "Employer" for plan I members, means the legislative authority of any city, town, county, or district or the elected officials of any municipal corporation that employs any law enforcement officer and/or fire fighter, any authorized association of such municipalities, and, except for the purposes of RCW 41.26.150, any labor guild, association, or organization, which represents the fire fighters or law enforcement officers of at least seven cities of over 20,000 population and the membership of each local lodge or division of which is composed of at least sixty percent law enforcement officers or fire fighters as defined in this chapter.

(b) "Employer" for plan II members, means the following entities to the extent that the entity employs any law enforcement officer and/or fire fighter:

- (i) The legislative authority of any city, town, county, or district;
- (ii) The elected officials of any municipal corporation; or
- (iii) The governing body of any other general authority law enforcement agency.

(3) "Law enforcement officer" beginning January 1, 1994, means any person who is commissioned and employed by an employer on a full time, fully compensated basis to enforce the criminal laws of the state of Washington generally, with the following qualifications:

- (a) No person who is serving in a position that is basically clerical or secretarial in nature, and who is not commissioned shall be considered a law enforcement officer;

(b) Only those deputy sheriffs, including those serving under a different title pursuant to county charter, who have successfully completed a civil service examination for deputy sheriff or the equivalent position, where a different title is used, and those persons serving in unclassified positions authorized by RCW 41.14.070 except a private secretary will be considered law enforcement officers;

(c) Only such full time commissioned law enforcement personnel as have been appointed to offices, positions, or ranks in the police department which have been specifically created or otherwise expressly provided for and designated by city charter provision or by ordinance enacted by the legislative body of the city shall be considered city police officers;

(d) The term "law enforcement officer" also includes the executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended) if that individual has five years previous membership in the retirement system established in chapter 41.20 RCW. The provisions of this subsection (3)(d) shall not apply to plan II members; and

(e) The term "law enforcement officer" also includes a person employed on or after January 1, 1993, as a public safety officer or director of public safety, so long as the job duties substantially involve only either police or fire duties, or both, and no other duties in a city or town with a population of less than ten thousand. The provisions of this subsection (3)(e) shall not apply to any public safety officer or director of public safety who is receiving a retirement allowance under this chapter as of May 12, 1993.

(4) "Fire fighter" means:

(a) Any person who is serving on a full time, fully compensated basis as a member of a fire department of an employer and who is serving in a position which requires passing a civil service examination for fire fighter, and who is actively employed as such;

(b) Anyone who is actively employed as a full time fire fighter where the fire department does not have a civil service examination;

(c) Supervisory fire fighter personnel;

(d) Any full time executive secretary of an association of fire protection districts authorized under RCW 52.12.031. The provisions of this subsection (4)(d) shall not apply to plan II members;

(e) The executive secretary of a labor guild, association or organization (which is an employer under RCW 41.26.030(2) as now or hereafter amended), if such individual has five years previous membership in a retirement system established in chapter 41.16 or 41.18 RCW. The provisions of this subsection (4)(e) shall not apply to plan II members;

(f) Any person who is serving on a full time, fully compensated basis for an employer, as a fire dispatcher, in a department in which, on March 1, 1970, a dispatcher was required to have passed a civil service examination for fire fighter; and

(g) Any person who on March 1, 1970, was employed on a full time, fully compensated basis by an employer, and who on May 21, 1971, was making retirement contributions under the provisions of chapter 41.16 or 41.18 RCW.

(5) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(6) "Surviving spouse" means the surviving widow or widower of a member. "Surviving spouse" shall not include the divorced spouse of a member except as provided in RCW 41.26.162.

(7)(a) "Child" or "children" means an unmarried person who is under the age of eighteen or mentally or physically handicapped as determined by the department, except a handicapped person in the full time care of a state institution, who is:

- (i) A natural born child;
- (ii) A stepchild where that relationship was in existence prior to the date benefits are payable under this chapter;
- (iii) A posthumous child;
- (iv) A child legally adopted or made a legal ward of a member prior to the date benefits are payable under this chapter; or
- (v) An illegitimate child legitimized prior to the date any benefits are payable under this chapter.

(b) A person shall also be deemed to be a child up to and including the age of twenty years and eleven months while attending any high school, college, or vocational or other educational institution accredited, licensed, or approved by the state, in which it is located, including the summer vacation months and all other normal and regular vacation periods at the particular educational institution after which the child returns to school.

(8) "Member" means any fire fighter, law enforcement officer, or other person as would apply under subsections (3) or (4) of this section whose membership is transferred to the Washington law enforcement officers' and fire fighters' retirement system on or after March 1, 1970, and every law enforcement officer and fire fighter who is employed in that capacity on or after such date.

(9) "Retirement fund" means the "Washington law enforcement officers' and fire fighters' retirement system fund" as provided for herein.

(10) "Employee" means any law enforcement officer or fire fighter as defined in subsections (3) and (4) of this section.

(11)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, disability allowance, death benefit, or any other benefit described herein.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(12)(a) "Final average salary" for plan I members, means (i) for a member holding the same position or rank for a minimum of twelve months preceding the

date of retirement, the basic salary attached to such same position or rank at time of retirement; (ii) for any other member, including a civil service member who has not served a minimum of twelve months in the same position or rank preceding the date of retirement, the average of the greatest basic salaries payable to such member during any consecutive twenty-four month period within such member's last ten years of service for which service credit is allowed, computed by dividing the total basic salaries payable to such member during the selected twenty-four month period by twenty-four; (iii) in the case of disability of any member, the basic salary payable to such member at the time of disability retirement; (iv) in the case of a member who hereafter vests pursuant to RCW 41.26.090, the basic salary payable to such member at the time of vesting.

(b) "Final average salary" for plan II members, means the monthly average of the member's basic salary for the highest consecutive sixty service credit months of service prior to such member's retirement, termination, or death. Periods constituting authorized unpaid leaves of absence may not be used in the calculation of final average salary.

(13)(a) "Basic salary" for plan I members, means the basic monthly rate of salary or wages, including longevity pay but not including overtime earnings or special salary or wages, upon which pension or retirement benefits will be computed and upon which employer contributions and salary deductions will be based.

(b) "Basic salary" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay. In any year in which a member serves in the legislature the member shall have the option of having such member's basic salary be the greater of:

(i) The basic salary the member would have received had such member not served in the legislature; or

(ii) Such member's actual basic salary received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because basic salary under (b)(i) of this subsection is greater than basic salary under (b)(ii) of this subsection shall be paid by the member for both member and employer contributions.

(14)(a) "Service" for plan I members, means all periods of employment for an employer as a fire fighter or law enforcement officer, for which compensation is paid, together with periods of suspension not exceeding thirty days in duration. For the purposes of this chapter service shall also include service in the armed forces of the United States as provided in RCW 41.26.190. Credit shall be allowed for all service credit months of service rendered by a member from and after the member's initial commencement of employment as a fire fighter or law

enforcement officer, during which the member worked for seventy or more hours, or was on disability leave or disability retirement. Only service credit months of service shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter.

(i) For members retiring after May 21, 1971 who were employed under the coverage of a prior pension act before March 1, 1970, "service" shall also include (A) such military service not exceeding five years as was creditable to the member as of March 1, 1970, under the member's particular prior pension act, and (B) such other periods of service as were then creditable to a particular member under the provisions of RCW 41.18.165, 41.20.160 or 41.20.170. However, in no event shall credit be allowed for any service rendered prior to March 1, 1970, where the member at the time of rendition of such service was employed in a position covered by a prior pension act, unless such service, at the time credit is claimed therefor, is also creditable under the provisions of such prior act.

(ii) A member who is employed by two employers at the same time shall only be credited with service to one such employer for any month during which the member rendered such dual service.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which basic salary is earned for ninety or more hours per calendar month which shall constitute a service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for at least seventy hours but less than ninety hours per calendar month shall constitute one-half service credit month. Periods of employment by a member for one or more employers for which basic salary is earned for less than seventy hours shall constitute a one-quarter service credit month.

Members of the retirement system who are elected or appointed to a state elective position may elect to continue to be members of this retirement system.

Service credit years of service shall be determined by dividing the total number of service credit months of service by twelve. Any fraction of a service credit year of service as so determined shall be taken into account in the computation of such retirement allowance or benefits.

If a member receives basic salary from two or more employers during any calendar month, the individual shall receive one service credit month's service credit during any calendar month in which multiple service for ninety or more hours is rendered; or one-half service credit month's service credit during any calendar month in which multiple service for at least seventy hours but less than ninety hours is rendered; or one-quarter service credit month during any calendar month in which multiple service for less than seventy hours is rendered.

(15) "Accumulated contributions" means the employee's contributions made by a member plus accrued interest credited thereon.

(16) "Actuarial reserve" means a method of financing a pension or retirement plan wherein reserves are accumulated as the liabilities for benefit payments are incurred in order that sufficient funds will be available on the date



of retirement of each member to pay the member's future benefits during the period of retirement.

(17) "Actuarial valuation" means a mathematical determination of the financial condition of a retirement plan. It includes the computation of the present monetary value of benefits payable to present members, and the present monetary value of future employer and employee contributions, giving effect to mortality among active and retired members and also to the rates of disability, retirement, withdrawal from service, salary and interest earned on investments.

(18) "Disability board" for plan I members means either the county disability board or the city disability board established in RCW 41.26.110.

(19) "Disability leave" means the period of six months or any portion thereof during which a member is on leave at an allowance equal to the member's full salary prior to the commencement of disability retirement. The definition contained in this subsection shall apply only to plan I members.

(20) "Disability retirement" for plan I members, means the period following termination of a member's disability leave, during which the member is in receipt of a disability retirement allowance.

(21) "Position" means the employment held at any particular time, which may or may not be the same as civil service rank.

(22) "Medical services" for plan I members, shall include the following as minimum services to be provided. Reasonable charges for these services shall be paid in accordance with RCW 41.26.150.

(a) Hospital expenses: These are the charges made by a hospital, in its own behalf, for

(i) Board and room not to exceed semiprivate room rate unless private room is required by the attending physician due to the condition of the patient.

(ii) Necessary hospital services, other than board and room, furnished by the hospital.

(b) Other medical expenses: The following charges are considered "other medical expenses", provided that they have not been considered as "hospital expenses".

(i) The fees of the following:

(A) A physician or surgeon licensed under the provisions of chapter 18.71 RCW;

(B) An osteopath licensed under the provisions of chapter 18.57 RCW;

(C) A chiropractor licensed under the provisions of chapter 18.25 RCW.

(ii) The charges of a registered graduate nurse other than a nurse who ordinarily resides in the member's home, or is a member of the family of either the member or the member's spouse.

(iii) The charges for the following medical services and supplies:

(A) Drugs and medicines upon a physician's prescription;

(B) Diagnostic x-ray and laboratory examinations;

(C) X-ray, radium, and radioactive isotopes therapy;

(D) Anesthesia and oxygen;

(E) Rental of iron lung and other durable medical and surgical equipment;  
 (F) Artificial limbs and eyes, and casts, splints, and trusses;  
 (G) Professional ambulance service when used to transport the member to or from a hospital when injured by an accident or stricken by a disease;

(H) Dental charges incurred by a member who sustains an accidental injury to his or her teeth and who commences treatment by a legally licensed dentist within ninety days after the accident;

(I) Nursing home confinement or hospital extended care facility;

(J) Physical therapy by a registered physical therapist;

(K) Blood transfusions, including the cost of blood and blood plasma not replaced by voluntary donors;

(L) An optometrist licensed under the provisions of chapter 18.53 RCW.

(23) "Regular interest" means such rate as the director may determine.

(24) "Retiree" for persons who establish membership in the retirement system on or after October 1, 1977, means any member in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by such member.

(25) "Director" means the director of the department.

(26) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(27) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(28) "Plan I" means the law enforcement officers' and fire fighters' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(29) "Plan II" means the law enforcement officers' and fire fighters' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

(30) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(31) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(32) "General authority law enforcement agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government of this state, and any agency, department, or division of state government, having as its primary function the detection and apprehension of persons committing infractions or violating the traffic or criminal laws in general, but not including the Washington state patrol. Such an agency, department, or division is distinguished from a limited authority law enforcement agency having as one of its functions the apprehension or detection of persons committing infractions or violating the traffic or criminal laws relating to limited subject areas, including but not limited to, the state departments of natural resources, ((fisheries,)) fish and wildlife, and social and health services, the state

gambling commission, the state lottery commission, the state parks and recreation commission, the state utilities and transportation commission, the state liquor control board, and the state department of corrections.

**Sec. 15.** RCW 43.19.450 and 1988 c 36 s 14 are each amended to read as follows:

The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, (~~department of fisheries,~~) department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable.

**\*Sec. 16.** RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217 are each amended to read as follows:

*There is hereby created an ecological commission. The commission shall consist of seven members to be appointed by the governor from the electors of the state who shall have a general knowledge of and interest in environmental matters. No persons shall be eligible for appointment who hold any other state, county or municipal elective or appointive office.*

*(a) One public member shall be a representative of organized labor.*

*(b) One public member shall be a representative of the business community.*

*(c) One public member shall be a representative of the agricultural community.*

*(d) Four persons representing the public at large.*

*The members of the initial commission shall be appointed within thirty days after July 1, 1970. Of the members of the initial commission, two shall be appointed for terms ending June 30, 1974, two shall be appointed for terms ending on June 30, 1973, two shall be appointed for terms ending on June 30, 1972, and one shall be appointed for a term ending June 30, 1971. Thereafter, each member of the commission shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the commission shall continue in office until his or her successor is appointed. No member shall be appointed for more than two consecutive terms. The chairman of the commission shall be appointed from the members by the governor.*

*The governor may remove any commission member for cause giving him or her a copy of the charges against him or her, and an opportunity of being publicly heard in person, or by counsel in his or her own defense. There shall be no right of review in any court whatsoever. The director or administrator, or a designated representative, of each of the following state agencies:*

*(1) The department of agriculture;*

*(2) The department of community, trade, and economic development;*

*(3) The department of ~~((fisheries;~~*

*~~(4) The department of~~) fish and wildlife;*

*~~((5)) (4) The department of health;~~*

*~~((6)) (5) The department of natural resources; and~~*

*~~((7)) (6) The state parks and recreation commission shall be given notice of and may attend all meetings of the commission and shall be given full opportunity to examine and be heard on all proposed orders, regulations or recommendations.~~*

*\*Sec. 16 was vetoed, see message at end of chapter.*

*Sec. 17. RCW 43.21J.030 and 1993 c 516 s 5 are each amended to read as follows:*

*(1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter*

516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, (~~the director of the department of fisheries,~~) the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget Sound water quality authority, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, (~~the department of trade and economic development,~~) the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department;

(d) No later than December 31, 1993, providing recommendations to the appropriate standing committees of the legislature for improving the administration of grants for projects or training programs funded under this chapter that prevent habitat and environmental degradation or provide for its restoration;

(e) Submitting to the appropriate standing committees of the legislature a biennial report summarizing the jobs and the environmental benefits created by the projects funded under this chapter.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts.

**Sec. 18.** RCW 43.31.621 and 1993 c 316 s 2 and 1993 c 280 s 49 are each reenacted and amended to read as follows:

(1) There is established the agency timber task force. The task force shall be chaired by the timber recovery coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, state work force training and education coordinating board, or its replacement entity, department of natural resources, department of transportation, state energy office, department of fish and wildlife, University of Washington center for international trade in forest products, and department of ecology. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, the Evergreen partnership, Washington association of counties, and rural development council.

(2) This section shall expire June 30, 1995.

**Sec. 19.** RCW 43.51.340 and 1990 c 49 s 1 are each amended to read as follows:

(1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

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

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appoint-

ments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under procedures adopted by the committee. The committee shall adopt any other procedures necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, 2001.

**Sec. 20.** RCW 43.51.432 and 1993 c 267 s 2 are each amended to read as follows:

The state parks and recreation commission may establish a system of underwater parks to provide for diverse recreational diving opportunities and to conserve and protect unique marine resources of the state of Washington. In establishing and maintaining an underwater park system, the commission may:

- (1) Plan, construct, and maintain underwater parks;
- (2) Acquire property and enter management agreements with other units of state government for the management of lands, tidelands, and bedlands as underwater parks;
- (3) Construct artificial reefs and other underwater features to enhance marine life and recreational uses of an underwater park;
- (4) Accept gifts and donations for the benefit of underwater parks;
- (5) Facilitate private efforts to construct artificial reefs and underwater parks;
- (6) Work with the federal government, local governments and other appropriate agencies of state government, including but not limited to: The department of natural resources, (~~the department of fisheries,~~) the department of fish and wildlife and the natural heritage council to carry out the purposes of RCW 43.51.430 through 43.51.438; and
- (7) Contract with other state agencies or local governments for the management of an underwater park unit.

**Sec. 21.** RCW 43.51.456 and 1993 c 182 s 9 are each amended to read as follows:

- (1) There is created a water trail advisory committee to advise the parks and recreation commission in the administration of RCW 43.51.440 through 43.51.454 and to assist and advise the commission in the development of water trail facilities and programs.

(2) The advisory committee shall consist of twelve members, who shall be appointed as follows:

(a) Five public members representing recreational water trail users, to be appointed by the commission;

(b) Two public members representing commercial sectors with an interest in the water trail system, to be appointed by the commission;

(c) One representative each from the department of natural resources, the department of fish and wildlife, the Washington state association of counties, and the association of Washington cities, to be appointed by the director of the agency or association. The director of the Washington state parks and recreation commission or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(3) Except as provided in this section, the terms of the public members appointed by the commission shall begin on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of an unexpired term. In making the initial appointments to the advisory committee, the commission shall appoint two public members to serve one year, two public members to serve for two years, and three public members to serve for three years. Public members of the advisory committee may be reimbursed from the water trail program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The committee shall select a chair and adopt rules necessary to govern its proceedings. The committee shall meet at the times and places it determines, not less than twice a year, and additionally as required by the committee chair or by majority vote of the committee.

**Sec. 22.** RCW 43.51.675 and 1988 c 75 s 17 are each amended to read as follows:

Nothing in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 shall be construed to interfere with the powers, duties and authority of the department of ~~((fisheries))~~ fish and wildlife to regulate the conservation or taking of food fish and shellfish. Nor shall anything in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 be construed to interfere with the powers, duties and authority of the ~~((state))~~ department of fish and wildlife to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park.

**Sec. 23.** RCW 43.51.943 and 1988 c 36 s 17 are each amended to read as follows:

The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and have joined together in cooperation with the ~~((state))~~ department of fish and wildlife to accomplish



other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 43.51.940 giving due regard to efficiency and economy of management: PROVIDED, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 43.51.942 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under RCW 43.51.940 through 43.51.945: PROVIDED FURTHER, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW.

**Sec. 24.** RCW 43.52.350 and 1988 c 36 s 18 are each amended to read as follows:

An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife (~~and the director of fisheries may jointly~~) finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of fish and wildlife (~~and the department of fisheries~~) to provide for the construction and/or operation of such fishways, facilities and hatcheries.

**Sec. 25.** RCW 43.63A.247 and 1993 c 280 s 65 are each amended to read as follows:

The senior environmental corps is created within the department of community, trade, and economic development. The departments of agriculture, community, trade, and economic development, employment security, ecology, (~~fisheries~~) fish and wildlife, health, and natural resources, (~~and wildlife~~) the parks and recreation commission, and the Puget Sound water quality authority

shall participate in the administration and implementation of the corps and shall appoint representatives to the council.

**Sec. 26.** RCW 43.63A.260 and 1993 c 280 s 66 are each amended to read as follows:

The department shall convene a senior environmental corps coordinating council to meet as needed to establish and assess policies, define standards for projects, evaluate and select projects, develop recruitment, training, and placement procedures, receive and review project status and completion reports, and provide for recognition of volunteer activity. The council shall include representatives appointed by the departments of agriculture, community, trade, and economic development, ecology, ~~((fisheries))~~ fish and wildlife, health, and natural resources, ~~((and wildlife,))~~ the parks and recreation commission, and the Puget Sound water quality authority. The council shall develop bylaws, policies and procedures to govern its activities.

The council shall advise the director on distribution of available funding for corps activities.

**Sec. 27.** RCW 43.81.010 and 1988 c 36 s 19 are each amended to read as follows:

The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, ~~((fisheries,))~~ fish and wildlife, social and health services, transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment.

**Sec. 28.** RCW 43.82.010 and 1990 c 47 s 1 are each amended to read as follows:

(1) The director of the department of general administration, on behalf of the agency involved, shall purchase, lease, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer

financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section.

(3) The director is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(4) If the director determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsections (1) or (3) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(5) In order to obtain maximum utilization of space, the director shall make space utilization studies, and shall establish standards for use of space by state agencies.

(6) The director may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management.

(7) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director or the director's designee, and recorded with the county auditor of the county in which the property is located.

(8) The director may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(9) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, (~~the department of fisheries,~~) the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(10) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

**Sec. 29.** RCW 43.831.188 and 1983 1st ex.s. c 59 s 3 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW 43.831.186 in the fisheries capital projects account of the general fund shall be administered by the department of ~~((fisheries))~~ fish and wildlife, subject to legislative appropriation.

**Sec. 30.** RCW 43.98B.030 and 1992 c 153 s 5 are each amended to read as follows:

(1) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be expended in the following manner:

- (a) Not less than thirty percent for basic stewardship;
- (b) Not less than twenty percent for improved or developed resources;
- (c) Not less than fifteen percent for human use management; and
- (d) Not more than fifteen percent for administration.

(e) The remaining twenty to thirty-five percent shall be considered unallocated.

(2) In the event that moneys appropriated for this chapter to the state wildlife and recreation lands management account under the initial allocation prove insufficient to meet basic stewardship needs, the unallocated amount shall be used to fund basic stewardship needs.

(3) Each eligible agency is not required to meet this specific percentage distribution. However, funding across agencies should meet these percentages during each biennium.

(4) It is intended that moneys disbursed from this account not replace existing operation and maintenance funding levels from other state sources.

(5) Agencies eligible to receive funds from this account are the departments of ~~((fisheries,))~~ fish and wildlife and natural resources, ~~((and wildlife,))~~ and the state parks and recreation commission.

(6) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be distributed in the following manner:

- (a) Not less than twenty-five percent to the state parks and recreation commission.
- (b) Not less than twenty-five percent to the department of natural resources.
- (c) Not less than twenty-five percent to the department of fish and wildlife.
- (d) The remaining funds shall be allocated to eligible agencies based upon an evaluation of remaining unfunded needs.

(7) The office of financial management shall review eligible state agency requests and make recommendations on the allocation of funds provided under this chapter as part of the governor's operating budget request to the legislature.

**Sec. 31.** RCW 43.99.110 and 1988 c 36 s 21 are each amended to read as follows:

There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, and the director of fish and wildlife, (~~the director of fisheries,~~) or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 32.** RCW 43.220.020 and 1988 c 36 s 23 are each amended to read as follows:

The Washington conservation corps is hereby created, to be implemented by the following state departments: The employment security department, the department of ecology, the department of fish and wildlife, the department of natural resources, (~~the department of fisheries,~~) the department of agriculture, and the state parks and recreation commission.

**Sec. 33.** RCW 43.220.090 and 1983 1st ex.s. c 40 s 9 are each amended to read as follows:

(1) There is established a conservation corps within the department of ecology.

(2) Specific work project areas of the ecology conservation corps may include the following:

(a) Litter pickup as a supplement to the role of the litter patrol established by the waste reduction, recycling, and model litter control (~~and recycling~~) act, chapter 70.93 RCW;

(b) Stream rehabilitation, including trash removal, in-stream debris removal, and clearance of log jams and silt accumulation, to the extent that such projects

do not conflict with similar tasks undertaken by the department of ~~((fisheries))~~  
fish and wildlife;

- (c) Minimum flow field work and stream gauging;
- (d) Identification of indiscriminate solid waste dump sites;
- (e) Laboratory and office assistance;
- (f) General maintenance and custodial work at sewage treatment plants;
- (g) Irrigation district assistance, including ditch cleaning and supervised work in surveying and engineering;
- (h) Streambank erosion control; and
- (i) Other projects as the director may determine. If a project requires certain levels of academic training, the director may assign corps members to categories of work projects according to educational background. If appropriate facilities are available, the director may authorize carrying out projects which involve overnight stays.

**Sec. 34.** RCW 43.220.120 and 1988 c 36 s 24 are each amended to read as follows:

(1) There is established a conservation corps within the department of fish and wildlife.

(2) Specific work project areas of the game conservation corps may include the following:

- (a) Habitat development;
- (b) Land clearing;
- (c) Construction projects;
- (d) Noxious weed control;
- (e) Brush cutting;
- (f) Reader board construction;
- (g) Painting;
- (h) Cleaning and repair of rearing ponds;
- (i) Fishtrap construction;
- (j) Brush clearance;
- (k) Spawning channel restoration;
- (l) Log removal;
- (m) Nest box maintenance and cleaning;
- (n) Fence building;
- (o) Winter game feeding and herding; ~~((and))~~
- (p) Stream rehabilitation;
- (q) Fish hatchery operation and maintenance;
- (r) Fish tagging; and

(s) Such other projects as the director of fish and wildlife may determine. If appropriate facilities are available, the director of fish and wildlife may authorize carrying out projects which involve overnight stays.

**Sec. 35.** RCW 46.09.130 and 1989 c 297 s 3 are each amended to read as follows:

No person may operate a nonhighway vehicle in such a way as to endanger human life. No person shall operate a nonhighway vehicle in such a way as to run down or harass any wildlife or animal, nor carry, transport, or convey any loaded weapon in or upon, nor hunt from, any nonhighway vehicle except by permit issued by the director of fish and wildlife under RCW 77.32.237: PROVIDED, That it shall not be unlawful to carry, transport, or convey a loaded pistol in or upon a nonhighway vehicle if the person complies with the terms and conditions of chapter 9.41 RCW.

Violation of this section is a gross misdemeanor.

**Sec. 36.** RCW 46.09.170 and 1990 c 42 s 115 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, based on the tax rate in effect January 1, 1990, less proper deductions for refunds and costs of collection as provided in RCW 46.68.090. The treasurer shall place these funds in the general fund as follows:

(a) Forty percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of natural resources solely for planning, maintenance, and management of ORV recreation facilities, nonhighway roads, and nonhighway road recreation facilities. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than five percent may be expended for information programs under this chapter;

(ii) Not less than ten percent and not more than fifty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty-five percent may be expended for maintenance of nonhighway roads;

(iv) Not more than fifty percent may be expended for nonhighway road recreation facilities;

(v) Ten percent shall be transferred to the interagency committee for outdoor recreation for grants to law enforcement agencies in those counties where the department of natural resources maintains ORV facilities. This amount is in addition to those distributions made by the interagency committee for outdoor recreation under (d)(i) of this subsection;

(b) Three and one-half percent shall be credited to the ORV and nonhighway vehicle account and administered by the department of fish and wildlife solely for the acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;

(c) Two percent shall be credited to the ORV and nonhighway vehicle account and administered by the parks and recreation commission solely for the maintenance and management of ORV use areas and facilities; and

(d) Fifty-four and one-half percent, together with the funds received by the interagency committee for outdoor recreation under RCW 46.09.110, shall be

credited to the outdoor recreation account to be administered by the committee for planning, acquisition, development, maintenance, and management of ORV recreation facilities and nonhighway road recreation facilities; ORV user education and information; and ORV law enforcement programs. The funds under this subsection shall be expended in accordance with the following limitations:

(i) Not more than twenty percent may be expended for ORV education, information, and law enforcement programs under this chapter;

(ii) Not less than an amount equal to the funds received by the interagency committee for outdoor recreation under RCW 46.09.110 and not more than sixty percent may be expended for ORV recreation facilities;

(iii) Not more than twenty percent may be expended for nonhighway road recreation facilities.

(2) On a yearly basis an agency may not, except as provided in RCW 46.09.110, expend more than ten percent of the funds it receives under this chapter for general administration expenses incurred in carrying out this chapter.

**Sec. 37.** RCW 46.10.130 and 1989 c 297 s 4 are each amended to read as follows:

No person shall operate a snowmobile in such a way as to endanger human life. No person shall operate a snowmobile in such a way as to run down or harass deer, elk, or any wildlife, or any domestic animal, nor shall ~~((he))~~ any person carry any loaded weapon upon, nor hunt from, any snowmobile except by permit issued by the director of fish and wildlife under RCW 77.32.237. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

**Sec. 38.** RCW 46.10.220 and 1989 c 175 s 110 are each amended to read as follows:

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

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

(3) The committee shall consist of:

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

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

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



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

(5) Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures under this subsection shall be from the snowmobile account created by RCW 46.10.075.

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

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

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

**Sec. 39.** RCW 69.04.935 and 1993 c 282 s 5 are each amended to read as follows:

To promote honesty and fair dealing for consumers, the director, in consultation with the director of the department of ~~((fisheries))~~ fish and wildlife, shall adopt rules:

(1) Fixing and establishing a reasonable definition and standard of identity for salmon for purposes of identifying and selling salmon;

(2) Enforcing RCW 69.04.933 and 69.04.934.

**Sec. 40.** RCW 69.30.070 and 1955 c 144 s 7 are each amended to read as follows:

Any certificate of approval issued under the provisions of this chapter shall not relieve any person from complying with the laws, rules and/or regulations of the ~~((state))~~ department of ~~((fisheries))~~ fish and wildlife, relative to shellfish.

**Sec. 41.** RCW 70.104.080 and 1991 c 3 s 363 are each amended to read as follows:

(1) There is hereby created a pesticide incident reporting and tracking review panel consisting of the following members:

(a) The directors, secretaries, or designees of the departments of labor and industries, agriculture, natural resources, fish and wildlife, and ecology;

(b) The (~~director~~ ~~secretary~~) secretary of the department of health or his or her designee, who shall serve as the coordinating agency for the review panel;

(c) The chair of the department of environmental health of the University of Washington, or his or her designee;

(d) The pesticide coordinator and specialist of the cooperative extension at Washington State University or his or her designee;

(e) A representative of the Washington poison control center network;

(f) A practicing toxicologist and a member of the general public, who shall each be appointed by the governor for terms of two years and may be appointed for a maximum of four terms at the discretion of the governor. The governor may remove either member prior to the expiration of his or her term of appointment for cause. Upon the death, resignation, or removal for cause of a member of the review panel, the governor shall fill such vacancy, within thirty days of its creation, for the remainder of the term in the manner herein prescribed for appointment to the review panel.

(2) The review panel shall be chaired by the secretary of the department of health, or the secretary's designee. The members of the review panel shall meet at least monthly at a time and place specified by the chair, or at the call of a majority of the review panel.

**Sec. 42.** RCW 70.105.020 and 1988 c 36 s 28 are each amended to read as follows:

The department after notice and public hearing shall:

(1) Adopt regulations designating as extremely hazardous wastes subject to the provisions of this chapter those substances which exhibit characteristics consistent with the definition provided in RCW 70.105.010(6);

(2) Adopt and may revise when appropriate, minimum standards and regulations for disposal of extremely hazardous wastes to protect against hazards to the public, and to the environment. Before adoption of such standards and regulations, the department shall consult with appropriate agencies of interested local governments and secure technical assistance from the department of agriculture, the department of social and health services, the department of fish and wildlife, the department of natural resources, (~~the department of fisheries;~~) the department of labor and industries, and the department of community, trade, and economic development, through the director of fire protection.

**Sec. 43.** RCW 72.63.020 and 1988 c 36 s 29 are each amended to read as follows:

The departments of corrections(~~(, fisheries,))~~ and fish and wildlife shall establish at or near appropriate state institutions, as defined in RCW 72.65.010, prison work programs that use prisoners to undertake state food fish, shellfish, and game fish rearing projects and state game bird and game animal improvement, restoration, and protection projects and that meet the requirements of RCW 72.09.100.

The department of corrections shall seek to identify a group of prisoners at each appropriate state institution, as defined by RCW 72.65.010, that are interested in participating in prison work programs established by this chapter.

If the department of corrections is unable to identify a group of prisoners to participate in work programs authorized by this chapter, it may enter into an agreement with the department ~~((s of fisheries or))~~ of fish and wildlife for the purpose of designing projects for any institution. Costs under this section shall be borne by the department of corrections.

The departments of corrections ~~(( fisheries ))~~ and fish and wildlife shall use prisoners, where appropriate, to perform work in state projects that may include the following types:

(1) Food fish, shellfish, and game fish rearing projects, including but not limited to egg planting, egg boxes, juvenile planting, pen rearing, pond rearing, raceway rearing, and egg taking;

(2) Game bird and game animal projects, including but not limited to habitat improvement and restoration, replanting and transplanting, nest box installation, pen rearing, game protection, and supplemental feeding: PROVIDED, That no project shall be established at the department of fish and wildlife's south Tacoma game farm;

(3) Manufacturing of equipment for use in fish and game volunteer cooperative projects permitted by the ~~((department of fisheries or the))~~ department of fish and wildlife, or for use in prison work programs with fish and game; and

(4) Maintenance, repair, restoration, and redevelopment of facilities operated by the department ~~((s))~~ of fish and wildlife ~~((and fisheries))~~.

**Sec. 44.** RCW 72.63.030 and 1988 c 36 s 30 are each amended to read as follows:

(1) The department ~~((s of fisheries))~~ of fish and wildlife ~~((, as appropriate,))~~ shall provide professional assistance from biologists, fish culturists, pathologists, engineers, habitat managers, and other departmental staff to assist the development and productivity of prison work programs under RCW 72.63.020, upon agreement with the department of corrections.

(2) The department ~~((s of fisheries))~~ of fish and wildlife shall identify and describe potential and pilot projects that are compatible with the goals of the various departments involved and that are particularly suitable for prison work programs.

(3) The department ~~((s of fisheries or))~~ of fish and wildlife ~~((, or both, as appropriate,))~~ may make available surplus hatchery rearing space, net pens, egg boxes, portable rearing containers, incubators, and any other departmental facilities or property that are available for loan to the department of corrections to carry out prison work programs under RCW 72.63.020.

(4) The department ~~((s of fisheries or))~~ of fish and wildlife ~~((, or both, as appropriate,))~~ shall provide live fish eggs, bird eggs, juvenile fish, game animals, or other appropriate seed stock, juveniles, or brood stock of acceptable disease

history and genetic composition for the prison work projects at no cost to the department of corrections, to the extent that such resources are available. Fish food, bird food, or animal food may be provided by the department ~~((s-of fisheries))~~ of fish and wildlife to the extent that funding is available.

(5) The department of natural resources shall assist in the implementation of the program where project sites are located on public beaches or state owned aquatic lands.

**Sec. 45.** RCW 75.10.220 and 1993 c 82 s 6 are each amended to read as follows:

(1) ~~((The department of wildlife shall notify the department))~~ Upon receipt of a report of failure to comply with the terms of a citation issued for a recreational violation from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.17.010 ~~((;-)),~~ the department shall suspend the violator's recreational license privileges under this title until satisfactory evidence of compliance with the terms of the wildlife citation ~~((has been furnished by the department of wildlife))~~. The department shall adopt by rule procedures for the timely notification and administrative review of such suspension of recreational licensing privileges.

(2) ~~((The department of wildlife shall notify the department))~~ Upon receipt of a report of a conviction for a recreational offense from the licensing authority of a state that is a party to the wildlife violator compact under RCW 77.17.010 ~~((;-)),~~ the department shall enter such conviction in its records and shall treat such conviction as if it occurred in the state of Washington for the purposes of suspension, revocation, or forfeiture of recreational license privileges.

**Sec. 46.** RCW 75.28.770 and 1993 sp.s. c 4 s 4 are each amended to read as follows:

The department ~~((of fisheries))~~ shall evaluate and recommend, in consultation with the Indian tribes, salmon fishery management strategies and gear types, as well as a schedule for implementation, that will minimize the impact of commercial and recreational fishing in the mixed stock fishery on critical and depressed wild stocks of salmonids. As part of this evaluation, the department, in conjunction with the commercial and recreational fishing industries, shall evaluate commercial and recreational salmon fishing gear types developed by these industries. The department ~~((of fisheries))~~ shall present status reports to the appropriate committees of the legislature by December 31 of each year in 1993, 1994, and 1995, and shall present the final evaluation and recommendations by December 31, 1996.

**Sec. 47.** RCW 75.54.070 and 1993 sp.s. c 2 s 89 are each amended to read as follows:

The department shall work with the department of ecology ~~((;-the department of wildlife,))~~ and local government entities to streamline the siting process for new enhancement projects. The department is encouraged to work with the

legislature to develop statutory changes that enable expeditious processing and granting of permits for fish enhancement projects.

**Sec. 48.** RCW 76.09.040 and 1993 c 443 s 2 are each amended to read as follows:

(1) Where necessary to accomplish the purposes and policies stated in RCW 76.09.010, and to implement the provisions of this chapter, the board shall promulgate forest practices regulations pursuant to chapter 34.05 RCW and in accordance with the procedures enumerated in this section that:

(a) Establish minimum standards for forest practices;

(b) Provide procedures for the voluntary development of resource management plans which may be adopted as an alternative to the minimum standards in (a) of this subsection if the plan is consistent with the purposes and policies stated in RCW 76.09.010 and the plan meets or exceeds the objectives of the minimum standards;

(c) Set forth necessary administrative provisions; and

(d) Establish procedures for the collection and administration of forest practice fees as set forth by this chapter.

Forest practices regulations pertaining to water quality protection shall be promulgated individually by the board and by the department of ecology after they have reached agreement with respect thereto. All other forest practices regulations shall be promulgated by the board.

Forest practices regulations shall be administered and enforced by the department except as otherwise provided in this chapter. Such regulations shall be promulgated and administered so as to give consideration to all purposes and policies set forth in RCW 76.09.010.

(2) The board shall prepare proposed forest practices regulations. In addition to any forest practices regulations relating to water quality protection proposed by the board, the department of ecology shall prepare proposed forest practices regulations relating to water quality protection.

Prior to initiating the rule making process, the proposed regulations shall be submitted for review and comments to the department of ~~((fisheries, the department of))~~ fish and wildlife and to the counties of the state. After receipt of the proposed forest practices regulations, the department ~~((of fisheries))~~ of fish and wildlife and the counties of the state shall have thirty days in which to review and submit comments to the board, and to the department of ecology with respect to its proposed regulations relating to water quality protection. After the expiration of such thirty day period the board and the department of ecology shall jointly hold one or more hearings on the proposed regulations pursuant to chapter 34.05 RCW. At such hearing(s) any county may propose specific forest practices regulations relating to problems existing within such county. The board and the department of ecology may adopt such proposals if they find the proposals are consistent with the purposes and policies of this chapter.

**Sec. 49.** RCW 76.09.050 and 1993 c 443 s 3 are each amended to read as follows:

(1) The board shall establish by rule which forest practices shall be included within each of the following classes:

**Class I:** Minimal or specific forest practices that have no direct potential for damaging a public resource that may be conducted without submitting an application or a notification;

**Class II:** Forest practices which have a less than ordinary potential for damaging a public resource that may be conducted without submitting an application and may begin five calendar days, or such lesser time as the department may determine, after written notification by the operator, in the manner, content, and form as prescribed by the department, is received by the department. However, the work may not begin until all forest practice fees required under RCW 76.09.065 have been received by the department. Class II shall not include forest practices:

(a) On lands platted after January 1, 1960, or being converted to another use;

(b) Which require approvals under the provisions of the hydraulics act, RCW 75.20.100;

(c) Within "shorelines of the state" as defined in RCW 90.58.030; or

(d) Excluded from Class II by the board;

**Class III:** Forest practices other than those contained in Class I, II, or IV. A Class III application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department;

**Class IV:** Forest practices other than those contained in Class I or II: (a) On lands platted after January 1, 1960, (b) on lands being converted to another use, (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, and/or (d) which have a potential for a substantial impact on the environment and therefore require an evaluation by the department as to whether or not a detailed statement must be prepared pursuant to the state environmental policy act, chapter 43.21C RCW. Such evaluation shall be made within ten days from the date the department receives the application: PROVIDED, That nothing herein shall be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action pursuant to a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. A Class IV application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must be approved or disapproved by the department within sixty

calendar days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. However, the applicant may not begin work on that forest practice until all forest practice fees required under RCW 76.09.065 have been received by the department.

Forest practices under Classes I, II, and III are exempt from the requirements for preparation of a detailed statement under the state environmental policy act.

(2) No Class II, Class III, or Class IV forest practice shall be commenced or continued after January 1, 1975, unless the department has received a notification with regard to a Class II forest practice or approved an application with regard to a Class III or Class IV forest practice containing all information required by RCW 76.09.060 as now or hereafter amended: PROVIDED, That any person commencing a forest practice during 1974 may continue such forest practice until April 1, 1975, if such person has submitted an application to the department prior to January 1, 1975: PROVIDED, FURTHER, That in the event forest practices regulations necessary for the scheduled implementation of this chapter and RCW 90.48.420 have not been adopted in time to meet such schedules, the department shall have the authority to regulate forest practices and approve applications on such terms and conditions consistent with this chapter and RCW 90.48.420 and the purposes and policies of RCW 76.09.010 until applicable forest practices regulations are in effect.

(3) If a notification or application is delivered in person to the department by the operator or (~~his~~) the operator's agent, the department shall immediately provide a dated receipt thereof. In all other cases, the department shall immediately mail a dated receipt to the operator.

(4) Forest practices shall be conducted in accordance with the forest practices regulations, orders and directives as authorized by this chapter or the forest practices regulations, and the terms and conditions of any approved applications.

(5) The department of natural resources shall notify the applicant in writing of either its approval of the application or its disapproval of the application and the specific manner in which the application fails to comply with the provisions of this section or with the forest practices regulations. Except as provided otherwise in this section, if the department fails to either approve or disapprove an application or any portion thereof within the applicable time limit, the application shall be deemed approved and the operation may be commenced: PROVIDED, That this provision shall not apply to applications which are neither approved nor disapproved pursuant to the provisions of subsection (7) of this section: PROVIDED, FURTHER, That if seasonal field conditions prevent the department from being able to properly evaluate the application, the department may issue an approval conditional upon further review within sixty days: PROVIDED, FURTHER, That the department shall have until April 1, 1975, to approve or disapprove an application involving forest practices allowed to

continue to April 1, 1975, under the provisions of subsection (2) of this section. Upon receipt of any notification or any satisfactorily completed application the department shall in any event no later than two business days after such receipt transmit a copy to the departments of ecology(~~(7)~~) and fish and wildlife(~~(7) and fisheries~~), and to the county, city, or town in whose jurisdiction the forest practice is to be commenced. Any comments by such agencies shall be directed to the department of natural resources.

(6) If the county, city, or town believes that an application is inconsistent with this chapter, the forest practices regulations, or any local authority consistent with RCW 76.09.240 as now or hereafter amended, it may so notify the department and the applicant, specifying its objections.

(7) The department shall not approve portions of applications to which a county, city, or town objects if:

(a) The department receives written notice from the county, city, or town of such objections within fourteen business days from the time of transmittal of the application to the county, city, or town, or one day before the department acts on the application, whichever is later; and

(b) The objections relate to lands either:

(i) Platted after January 1, 1960; or

(ii) Being converted to another use.

The department shall either disapprove those portions of such application or appeal the county, city, or town objections to the appeals board. If the objections related to subparagraphs (b) (i) and (ii) of this subsection are based on local authority consistent with RCW 76.09.240 as now or hereafter amended, the department shall disapprove the application until such time as the county, city, or town consents to its approval or such disapproval is reversed on appeal. The applicant shall be a party to all department appeals of county, city, or town objections. Unless the county, city, or town either consents or has waived its rights under this subsection, the department shall not approve portions of an application affecting such lands until the minimum time for county, city, or town objections has expired.

(8) In addition to any rights under the above paragraph, the county, city, or town may appeal any department approval of an application with respect to any lands within its jurisdiction. The appeals board may suspend the department's approval in whole or in part pending such appeal where there exists potential for immediate and material damage to a public resource.

(9) Appeals under this section shall be made to the appeals board in the manner and time provided in RCW 76.09.220(8). In such appeals there shall be no presumption of correctness of either the county, city, or town or the department position.

(10) The department shall, within four business days notify the county, city, or town of all notifications, approvals, and disapprovals of an application affecting lands within the county, city, or town, except to the extent the county, city, or town has waived its right to such notice.



(11) A county, city, or town may waive in whole or in part its rights under this section, and may withdraw or modify any such waiver, at any time by written notice to the department.

**Sec. 50.** RCW 76.09.180 and 1988 c 36 s 48 are each amended to read as follows:

All penalties received or recovered by state agency action for violations as prescribed in RCW 76.09.170 shall be deposited in the state general fund. All such penalties recovered as a result of local government action shall be deposited in the local government general fund. Any funds recovered as reimbursement for damages pursuant to RCW 76.09.080 and 76.09.090 shall be transferred to that agency with jurisdiction over the public resource damaged, including but not limited to political subdivisions, the department of fish and wildlife, (~~the department of fisheries;~~) the department of ecology, the department of natural resources, or any other department that may be so designated: PROVIDED, That nothing herein shall be construed to affect the provisions of RCW 90.48.142.

**Sec. 51.** RCW 76.48.040 and 1988 c 36 s 49 are each amended to read as follows:

Agencies charged with the enforcement of this chapter shall include, but not be limited to, the Washington state patrol, county sheriffs and their deputies, county or municipal police forces, authorized personnel of the United States forest service, and authorized personnel of the departments of natural resources(~~and fisheries;~~) and fish and wildlife. Primary enforcement responsibility lies in the county sheriffs and their deputies.

**Sec. 52.** RCW 77.04.030 and 1993 sp.s. c 2 s 60 are each amended to read as follows:

The (~~state~~) fish and wildlife commission consists of nine registered voters of the state. In January of each odd-numbered year, the governor shall appoint with the advice and consent of the senate two registered voters to the commission to serve for terms of six years from that January or until their successors are appointed and qualified. If a vacancy occurs on the commission prior to the expiration of a term, the governor shall appoint a registered voter within sixty days to complete the term. Three members shall be residents of that portion of the state lying east of the summit of the Cascade mountains, and three shall be residents of that portion of the state lying west of the summit of the Cascade mountains. Three additional members shall be appointed at-large effective July 1, 1993; one of whom shall serve a one and one-half year term to end December 31, 1994; one of whom shall serve a three and one-half year term to end December 31, 1996; and one of whom shall serve a five and one-half year term to end December 31, 1998. Thereafter all members are to serve a six-year term. No two members may be residents of the same county. The legal office of the commission is at the administrative office of the department in Olympia.

**Sec. 53.** RCW 77.12.020 and 1987 c 506 s 13 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 (~~(of fisheries)~~).

(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.

**Sec. 54.** RCW 77.12.031 and 1993 c 80 s 4 are each amended to read as follows:

The authority of the department (~~(of wildlife)~~) does not extend to preventing, controlling, or suppressing diseases in llamas or alpacas or to controlling the movement or sale of llamas or alpacas.

This section shall not be construed as granting or denying authority to the department (~~(of wildlife)~~) to prevent, control, or suppress diseases in any animals other than llamas and alpacas.

**Sec. 55.** RCW 77.17.010 and 1993 c 82 s 1 are each amended to read as follows:

The wildlife violator compact is hereby established in the form substantially as follows, and the Washington state department of fish and wildlife is authorized to enter into such compact on behalf of the state with all other jurisdictions legally joining therein:

#### ARTICLE I

#### FINDINGS, DECLARATION OF POLICY, AND PURPOSE

(a) The party states find that:

(1) Wildlife resources are managed in trust by the respective states for the benefit of all residents and visitors.

(2) The protection of their respective wildlife resources can be materially affected by the degree of compliance with state statute, law, regulation, ordinance, or administrative rule relating to the management of those resources.

(3) The preservation, protection, management, and restoration of wildlife contributes immeasurably to the aesthetic, recreational, and economic aspects of these natural resources.

(4) Wildlife resources are valuable without regard to political boundaries, therefore, all persons should be required to comply with wildlife preservation, protection, management, and restoration laws, ordinances, and administrative rules and regulations of all party states as a condition precedent to the continuance or issuance of any license to hunt, fish, trap, or possess wildlife.

(5) Violation of wildlife laws interferes with the management of wildlife resources and may endanger the safety of persons and property.

(6) The mobility of many wildlife law violators necessitates the maintenance of channels of communications among the various states.

(7) In most instances, a person who is cited for a wildlife violation in a state other than the person's home state:

(i) Must post collateral or bond to secure appearance for a trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for an immediate appearance.

(8) The purpose of the enforcement practices described in paragraph (7) of this subdivision is to ensure compliance with the terms of a wildlife citation by the person who, if permitted to continue on the person's way after receiving the citation, could return to the person's home state and disregard the person's duty under the terms of the citation.

(9) In most instances, a person receiving a wildlife citation in the person's home state is permitted to accept the citation from the officer at the scene of the violation and to immediately continue on the person's way after agreeing or being instructed to comply with the terms of the citation.

(10) The practice described in paragraph (7) of this subdivision causes unnecessary inconvenience and, at times, a hardship for the person who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some alternative arrangement can be made.

(11) The enforcement practices described in paragraph (7) of this subdivision consume an undue amount of law enforcement time.

(b) It is the policy of the party states to:

(1) Promote compliance with the statutes, laws, ordinances, regulations, and administrative rules relating to management of wildlife resources in their respective states.

(2) Recognize the suspension of wildlife license privileges of any person whose license privileges have been suspended by a party state and treat this suspension as if it had occurred in their state.

(3) Allow violators to accept a wildlife citation, except as provided in subdivision (b) of Article III, and proceed on the violator's way without delay whether or not the person is a resident in the state in which the citation was issued, provided that the violator's home state is party to this compact.

(4) Report to the appropriate party state, as provided in the compact manual, any conviction recorded against any person whose home state was not the issuing state.

(5) Allow the home state to recognize and treat convictions recorded for their residents which occurred in another party state as if they had occurred in the home state.

(6) Extend cooperation to its fullest extent among the party states for obtaining compliance with the terms of a wildlife citation issued in one party state to a resident of another party state.

(7) Maximize effective use of law enforcement personnel and information.

(8) Assist court systems in the efficient disposition of wildlife violations.

(c) The purpose of this compact is to:

(1) Provide a means through which the party states may participate in a reciprocal program to effectuate policies enumerated in subdivision (b) of this article in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of wildlife violators operating within party states in recognition of the person's right of due process and the sovereign status of a party state.

## ARTICLE II DEFINITIONS

Unless the context requires otherwise, the definitions in this article apply through this compact and are intended only for the implementation of this compact:

(a) "Citation" means any summons, complaint, ticket, penalty assessment, or other official document issued by a wildlife officer or other peace officer for a wildlife violation containing an order which requires the person to respond.

(b) "Collateral" means any cash or other security deposited to secure an appearance for trial, in connection with the issuance by a wildlife officer or other peace officer of a citation for a wildlife violation.

(c) "Compliance" with respect to a citation means the act of answering the citation through appearance at a court, a tribunal, or payment of fines, costs, and surcharges, if any, or both such appearance and payment.

(d) "Conviction" means a conviction, including any court conviction, of any offense related to the preservation, protection, management, or restoration of wildlife which is prohibited by state statute, law, regulation, ordinance, or administrative rule, or a forfeiture of bail, bond, or other security deposited to

secure appearance by a person charged with having committed any such offense, or payment of a penalty assessment, or a plea of nolo contendere, or the imposition of a deferred or suspended sentence by the court.

(e) "Court" means a court of law, including Magistrate's Court and the Justice of the Peace Court.

(f) "Home state" means the state of primary residence of a person.

(g) "Issuing state" means the party state which issues a wildlife citation to the violator.

(h) "License" means any license, permit, or other public document which conveys to the person to whom it was issued the privilege of pursuing, possessing, or taking any wildlife regulated by statute, law, regulation, ordinance, or administrative rule of a party state.

(i) "Licensing authority" means the department or division within each party state which is authorized by law to issue or approve licenses or permits to hunt, fish, trap, or possess wildlife.

(j) "Party state" means any state which enacts legislation to become a member of this wildlife compact.

(k) "Personal recognizance" means an agreement by a person made at the time of issuance of the wildlife citation that the person will comply with the terms of that citation.

(l) "State" means any state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(m) "Suspension" means any revocation, denial, or withdrawal of any or all license privileges, including the privilege to apply for, purchase, or exercise the benefits conferred by any license.

(n) "Terms of the citation" means those conditions and options expressly stated upon the citation.

(o) "Wildlife" means all species of animals, including but not necessarily limited to mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, which are defined as "wildlife" and are protected or otherwise regulated by statute, law, regulation, ordinance, or administrative rule in a party state. "Wildlife" also means food fish and shellfish as defined by statute, law, regulation, ordinance, or administrative rule in a party state. Species included in the definition of "wildlife" vary from state to state and determination of whether a species is "wildlife" for the purposes of this compact shall be based on local law.

(p) "Wildlife law" means any statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

(q) "Wildlife officer" means any individual authorized by a party state to issue a citation for a wildlife violation.

(r) "Wildlife violation" means any cited violation of a statute, law, regulation, ordinance, or administrative rule developed and enacted to manage wildlife resources and the use thereof.

ARTICLE III  
PROCEDURES FOR ISSUING STATE

(a) When issuing a citation for a wildlife violation, a wildlife officer shall issue a citation to any person whose primary residence is in a party state in the same manner as if the person were a resident of the home state and shall not require the person to post collateral to secure appearance, subject to the exceptions contained in subdivision (b) of this article, if the officer receives the person's personal recognizance that the person will comply with the terms of the citation.

(b) Personal recognizance is acceptable:

- (1) If not prohibited by local law or the compact manual; and
- (2) If the violator provides adequate proof of the violator's identification to the wildlife officer.

(c) Upon conviction or failure of a person to comply with the terms of a wildlife citation, the appropriate official shall report the conviction or failure to comply to the licensing authority of the party state in which the wildlife citation was issued. The report shall be made in accordance with procedures specified by the issuing state and shall contain the information specified in the compact manual as minimum requirements for effective processing by the home state.

(d) Upon receipt of the report of conviction or noncompliance required by subdivision (c) of this article, the licensing authority of the issuing state shall transmit to the licensing authority in the home state of the violator the information in a form and content as contained in the compact manual.

ARTICLE IV  
PROCEDURES FOR HOME STATE

(a) Upon receipt of a report of failure to comply with the terms of a citation from the licensing authority of the issuing state, the licensing authority of the home state shall notify the violator, shall initiate a suspension action in accordance with the home state's suspension procedures and shall suspend the violator's license privileges until satisfactory evidence of compliance with the terms of the wildlife citation has been furnished by the issuing state to the home state licensing authority. Due process safeguards will be accorded.

(b) Upon receipt of a report of conviction from the licensing authority of the issuing state, the licensing authority of the home state shall enter such conviction in its records and shall treat such conviction as if it occurred in the home state for the purposes of the suspension of license privileges.

(c) The licensing authority of the home state shall maintain a record of actions taken and make reports to issuing states as provided in the compact manual.

ARTICLE V  
RECIPROCAL RECOGNITION OF SUSPENSION

All party states shall recognize the suspension of license privileges of any person by any state as if the violation on which the suspension is based had in fact occurred in their state and could have been the basis for suspension of license privileges in their state.

ARTICLE VI  
APPLICABILITY OF OTHER LAWS

Except as expressly required by provisions of this compact, nothing herein shall be construed to affect the right of any party state to apply any of its laws relating to license privileges to any person or circumstance, or to invalidate or prevent any agreement or other cooperative arrangements between a party state and a nonparty state concerning wildlife law enforcement.

ARTICLE VII  
COMPACT ADMINISTRATOR PROCEDURES

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a board of compact administrators is established. The board shall be composed of one representative from each of the party states to be known as the compact administrator. The compact administrator shall be appointed by the head of the licensing authority of each party state and will serve and be subject to removal in accordance with the laws of the state the administrator represents. A compact administrator may provide for the discharge of the administrator's duties and the performance of the administrator's functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of the alternate's identity has been given to the board.

(b) Each member of the board of compact administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action by the board shall be only at a meeting at which a majority of the party states are represented.

(c) The board shall elect annually, from its membership, a chairperson and vice-chairperson.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party state, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state, the United States, or any governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with or accept services or personnel from any governmental or intergovernmental agency, individual, firm, corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the compact manual.

**ARTICLE VIII  
ENTRY INTO COMPACT AND WITHDRAWAL**

(a) This compact shall become effective when it has been adopted by at least two states.

(b)(1) Entry into the compact shall be made by resolution of ratification executed by the authorized officials of the applying state and submitted to the chairperson of the board.

(2) The resolution shall be in a form and content as provided in the compact manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the state is empowered to become a party to this compact;

(ii) Agreement to comply with the terms and provisions of the compact; and

(iii) That compact entry is with all states then party to the compact and with any state that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying state, but shall not be less than sixty days after notice has been given by the chairperson of the board of compact administrators or by the secretariat of the board to each party state that the resolution from the applying state has been received.

(c) A party state may withdraw from this compact by official written notice to the other party states, but a withdrawal shall not take effect until ninety days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member state. No withdrawal shall affect the validity of this compact as to the remaining party states.

**ARTICLE IX  
AMENDMENTS TO THE COMPACT**

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairperson of the board of compact administrators and may be initiated by one or more party states.

(b) Adoption of an amendment shall require endorsement by all party states and shall become effective thirty days after the date of the last endorsement.

(c) Failure of a party state to respond to the compact chairperson within one hundred twenty days after receipt of the proposed amendment shall constitute endorsement.



ARTICLE X  
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, individual, or circumstance is held invalid, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any party state thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

ARTICLE XI  
TITLE

This compact shall be known as the wildlife violator compact.

**Sec. 56.** RCW 77.17.020 and 1993 c 82 s 2 are each amended to read as follows:

For purposes of Article VII of RCW 77.17.010, the term "licensing authority," with reference to this state, means the department ~~((of wildlife))~~. The director ~~((of the department of wildlife))~~ is authorized to appoint a compact administrator.

**Sec. 57.** RCW 77.17.030 and 1993 c 82 s 3 are each amended to read as follows:

The director ~~((of the department of wildlife))~~ shall furnish to the appropriate authorities of the participating states any information or documents reasonably necessary to facilitate the administration of the compact.

**\*Sec. 58.** RCW 79.01.805 and 1993 c 283 s 3 are each amended to read as follows:

*The maximum daily wet weight harvest or possession of seaweed for personal use from all private and public tidelands and state bedlands is ten pounds per person. The department of natural resources in cooperation with the department of ~~((fisheries))~~ fish and wildlife may establish seaweed harvest limits of less than ten pounds for conservation purposes. This section shall in no way affect the ability of any state agency to prevent harvest of any species of marine aquatic plant from lands under its control, ownership, or management.*

\*Sec. 58 was vetoed, see message at end of chapter.

**\*Sec. 59.** RCW 79.01.815 and 1993 c 283 s 5 are each amended to read as follows:

*The department of ~~((fisheries))~~ fish and wildlife may enforce the provisions of RCW 79.01.805 and 79.01.810.*

\*Sec. 59 was vetoed, see message at end of chapter.

**Sec. 60.** RCW 79.66.080 and 1988 c 36 s 53 are each amended to read as follows:

Periodically, at intervals to be determined by the board of natural resources, the department of natural resources shall identify trust lands which are expected to convert to commercial, residential, or industrial uses within ten years. The department shall adhere to existing local comprehensive plans, zoning classifications, and duly adopted local policies when making this identification and determining the fair market value of the property.

The department shall hold a public hearing on the proposal in the county where the state land is located. At least fifteen days but not more than thirty days before the hearing, the department shall publish a public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the trust land is located. At the same time that the published notice is given, the department shall give written notice of the hearings to the departments of (~~fisheries~~) fish and wildlife(~~and~~) and general administration, to the parks and recreation commission, and to the county, city, or town in which the property is situated. The department shall disseminate a news release pertaining to the hearing among printed and electronic media in the area where the trust land is located. The public notice and news release also shall identify trust lands in the area which are expected to convert to commercial, residential, or industrial uses within ten years.

A summary of the testimony presented at the hearings shall be prepared for the board's consideration. The board of natural resources shall designate trust lands which are expected to convert to commercial, residential, or industrial uses as urban land. Descriptions of lands designated by the board shall be made available to the county and city or town in which the land is situated and for public inspection and copying at the department's administrative office in Olympia, Washington and at each area office.

The hearing and notice requirements of this section apply to those trust lands which have been identified by the department prior to July 1, 1984, as being expected to convert to commercial, residential, or industrial uses within the next ten years, and which have not been sold or exchanged prior to July 1, 1984.

**Sec. 61.** RCW 79.70.030 and 1988 c 36 s 54 are each amended to read as follows:

In order to set aside, preserve and protect natural areas within the state, the department is authorized, in addition to any other powers, to:

- (1) Establish by rule and regulation the criteria for selection, acquisition, management, protection and use of such natural areas;
- (2) Cooperate or contract with any federal, state, or local governmental agency, private organizations or individuals in carrying out the purpose of this chapter;

(3) Consistent with the plan, acquire by gift, devise, purchase, grant, dedication, or means other than eminent domain, the fee or any lesser right or interest in real property which shall be held and managed as a natural area;

(4) Acquire by gift, devise, grant or donation any personal property to be used in the acquisition and/or management of natural areas;

(5) Inventory existing public, state and private lands in cooperation with the council to assess possible natural areas to be preserved within the state;

(6) Maintain a natural heritage program to provide assistance in the selection and nomination of areas containing natural heritage resources for registration or dedication. The program shall maintain a classification of natural heritage resources, an inventory of their locations, and a data bank for such information. The department of natural resources shall cooperate with the department of 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 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. 62.** RCW 79.70.070 and 1988 c 36 s 55 are each amended to read as follows:

(1) The natural heritage advisory council is hereby established. The council shall consist of fifteen members, nine of whom shall be chosen as follows and who shall elect from the council's membership a chairperson:

(a) Five individuals, appointed by the commissioner, who shall be recognized experts in the ecology of natural areas and represent the public, academic, and private sectors. Desirable fields of expertise are biological and geological sciences; and

(b) Four individuals, appointed by the commissioner, who shall be selected from the various regions of the state. At least one member shall be or represent a private forest landowner and at least one member shall be or represent a private agricultural landowner.

(2) Members appointed under subsection (1) of this section shall serve for terms of four years.

(3) In addition to the members appointed by the commissioner, the director of the department of fish and wildlife, the director of the department of ecology, ~~((the director of the department of fisheries,))~~ the supervisor of the department of natural resources, the director of the state parks and recreation commission, and the administrator of the interagency committee for outdoor recreation, or an authorized representative of each agency officer, shall serve as ex officio, nonvoting members of the council.

(4) Any vacancy on the council shall be filled by appointment for the unexpired term by the commissioner.

(5) In order to provide for staggered terms, of the initial members of the council:

- (a) Three shall serve for a term of two years;
- (b) Three shall serve for a term of three years; and
- (c) Three shall serve for a term of four years.

(6) Members of the natural preserves advisory committee serving on July 26, 1981, shall serve as members of the council until the commissioner appoints a successor to each. The successor appointment shall be specifically designated to replace a member of the natural preserves advisory committee until all members of that committee have been replaced. A member of the natural

preserves advisory committee is eligible for appointment to the council if otherwise qualified.

(7) Members of the council shall serve without compensation. Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended.

**Sec. 63.** RCW 79.70.080 and 1988 c 36 s 56 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, (~~the department of fisheries,~~) and other state agencies managing state-owned land or natural resources regarding areas under their respective jurisdictions which are appropriate for natural area registration or dedication;

(d) Advise the department of rules and regulations that the council considers necessary in carrying out this chapter; and

(e) Review and approve area nominations by the department or other agencies for registration and review and comment on legal documents for the voluntary dedication of such areas.

(2) From time to time, the council shall identify areas from the natural heritage data bank which qualify for registration. Priority shall be based on the natural heritage plan and shall generally be given to those resources which are rarest, most threatened, or under-represented in the heritage conservation system on a state-wide basis. After qualifying areas have been identified, the department shall advise the owners of such areas of the opportunities for acquisition or voluntary registration or dedication.

**Sec. 64.** RCW 79.72.020 and 1988 c 36 s 57 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the state parks and recreation commission.

(2) "Committee of participating agencies" or "committee" means a committee composed of the executive head, or the executive's designee, of each of the state departments of ecology, (~~fisheries,~~) fish and wildlife, natural resources, and transportation, the state parks and recreation commission, the interagency committee for outdoor recreation, the Washington state association of counties, and the association of Washington cities. In addition, the governor shall appoint two public members of the committee. Public members of the committee shall be compensated in accordance with RCW 43.03.220 and shall

receive reimbursement for their travel expenses as provided in RCW 43.03.050 and ((RCW)) 43.03.060.

When a specific river or river segment of the state's scenic river system is being considered by the committee, a representative of each participating local government associated with that river or river segment shall serve as a member of the committee.

(3) "Participating local government" means the legislative authority of any city or county, a portion of whose territorial jurisdiction is bounded by or includes a river or river segment of the state's scenic river system.

(4) "River" means a flowing body of water or a section, segment, or portion thereof.

(5) "River area" means a river and the land area in its immediate environs as established by the participating agencies not exceeding a width of one-quarter mile landward from the streamway on either side of the river.

(6) "Scenic easement" means the negotiated right to control the use of land, including the air space above the land, for the purpose of protecting the scenic view throughout the visual corridor.

(7) "Streamway" means that stream-dependent corridor of single or multiple, wet or dry, channel or channels within which the usual seasonal or stormwater run-off peaks are contained, and within which environment the flora, fauna, soil, and topography is dependent on or influenced by the height and velocity of the fluctuating river currents.

(8) "System" means all the rivers and river areas in the state designated by the legislature for inclusion as scenic rivers but does not include tributaries of a designated river unless specifically included by the legislature. The inclusion of a river in the system does not mean that other rivers or tributaries in a drainage basin shall be required to be part of the management program developed for the system unless the rivers and tributaries within the drainage basin are specifically designated for inclusion by the legislature.

(9) "Visual corridor" means that area which can be seen in a normal summer month by a person of normal vision walking either bank of a river included in the system. The visual corridor shall not exceed the river area.

**Sec. 65.** RCW 79.81.030 and 1989 c 23 s 3 are each amended to read as follows:

The department shall have the authority to coordinate implementation of the plan with appropriate state agencies including the parks and recreation commission and the departments of ecology(~~(-fisheries,))~~ and fish and wildlife. The department is authorized to promulgate, in consultation with affected agencies, the necessary rules to provide for the cleanup and to prevent pollution of the waters of the state and aquatic lands by plastic and other marine debris.

**Sec. 66.** RCW 79.94.390 and 1983 1st ex.s. c 46 s 181 are each amended to read as follows:

The following described tidelands, being public lands of the state, are withdrawn from sale or lease and reserved as public areas for recreational use and for the taking of fish and shellfish for personal use as defined in RCW 75.08.011:

Parcel No. 1. (Point Whitney) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to or abutting upon lots 3, 4, and 5, section 7, township 26 north, range 1 west, W.M., with a frontage of 72.45 lineal chains, more or less.

Excepting, however, those portions of the above described tidelands of the second class conveyed to the state of Washington, department of (~~fisheries and game~~) fish and wildlife through deed issued May 14, 1925, under application No. 8136, records of department of public lands.

Parcel No. 2. (Point Whitney) The tidelands of the second class lying below the line of mean low tide, owned by the state of Washington, situate in front of lot 1, section 6, township 26 north, range 1 west, W.M., with a frontage of 21.00 lineal chains, more or less; also

The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to or abutting upon lots 6 and 7, and that portion of lot 5, section 1, township 26 north, range 1 west, W.M., lying south of a line running due west from a point on the government meander line which is S 22° E 1.69 chains from an angle point in said meander line which is S 15° W 1.20 chains, more or less, from the point of intersection of the north line of said lot 5 and said meander line, with a frontage of 40.31 lineal chains, more or less.

Parcel No. 3. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 4. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right of way for county road granted to Jefferson county December 8, 1941 under application No. 1731, records of department of public lands.

Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less.

Subject to easements for rights of way for state road granted through the filing of state road plats No. 374 December 15, 1930, No. 661, March 29, 1949, and No. 666 August 25, 1949, records of department of public lands.

Parcel No. 6. (Nemah) Those portions of the tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 5, 6, and 7, section 3 and lots 1, 2, and 3, section 4, township 12 north, range 10 west, W.M., lots 1, 2, 3, and 4, section 34, section 27 and lots 1, 2, 3 and 4, section 28, township 13 north, range 10 west, W.M., lying easterly of the easterly line of the Nemah Oyster reserve and easterly of the easterly line of a tract of tidelands of the second class conveyed through deed issued July 28, 1938, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 9731, with a frontage of 326.22 lineal chains, more or less.

Parcels No. 7 and 8. (Penn Cove) The unplatted tidelands of the first class, and tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1 and 2, section 33, lots 1, 2, 3, and 4, section 32, lots 2 and 3 and the B.P. Barstow D.L.C. No. 49, sections 30 and 31 and that portion of the R.H. Lansdale D.L.C. No. 54 in section 30, lying west of the east 3.00 chains thereof as measured along the government meander line, all in township 32 north, range 1 east, W.M., with a frontage of 260.34 lineal chains, more or less.

Excepting, however, the tidelands above the line of mean low tide in front of said lot 1, section 32 which were conveyed as tidelands of the second class through deed issued December 29, 1908, application No. 4957, records of department of public lands.

Subject to an easement for right of way for transmission cable line granted to the United States of America Army Engineers June 7, 1943, under application No. 17511, records of department of public lands.

Parcel No. 9. (South of Penn Cove) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 2, 3 and 4, section 17 and lots 1, 2 and 3, section 20, township 31 north, range 2 east, W.M., with a frontage of 129.97 lineal chains, more or less.

Parcel No. 10. (Mud Bay—Lopez Island) The tidelands of the second class, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any tideland of the second class in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909, pursuant to the provisions of chapter 24, Laws of 1895, under application No. 4985, records of department of public lands.

Parcel No. 11. (Cattle Point) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lot 1, section 6, lots 1, 3, 4, 5, 6, 7, 8, 9, and 10, section 7, lots 1, 2, 3, 4, 5, 6 and 7,



section 8 and lot 1, section 5, all in township 34 north, range 2 west, W.M., with a frontage of 463.88 lineal chains, more or less.

Excepting, however, any tidelands of the second class in front of said lot 10, section 7 conveyed through deed issued June 1, 1912, under application No. 6906, records of department of public lands.

Parcel No. 12. (Spencer Spit) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less.

**Sec. 67.** RCW 79.94.400 and 1982 1st ex.s. c 21 s 125 are each amended to read as follows:

The director of ~~((fisheries))~~ fish and wildlife may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 79.94.390.

**Sec. 68.** RCW 79.96.030 and 1987 c 374 s 1 are each amended to read as follows:

(1) The department of natural resources, upon the receipt of an application for a lease for the purpose of planting and cultivating oyster beds or for the purpose of cultivating clams or other edible shellfish, shall notify the director of ~~((fisheries))~~ fish and wildlife of the filing of the application describing the tidelands or beds of navigable waters applied for. The director of ~~((fisheries))~~ fish and wildlife shall cause an inspection of the lands applied for to be made and shall make a full report to the department of natural resources of his or her findings as to whether it is necessary, in order to protect existing natural oyster beds, and to secure adequate seeding thereof, to retain the lands described in the application for lease or any part thereof, and in the event the director deems it advisable to retain the lands or any part thereof for the protection of existing natural oyster beds or to guarantee the continuance of an adequate seed stock for existing natural oyster beds, the same shall not be subject to lease. However, if the director determines that the lands applied for or any part thereof may be leased, ~~((he))~~ the director shall so notify the department of natural resources and the director shall cause an examination of the lands to be made to determine the presence, if any, of natural oysters, clams, or other edible shellfish on said lands, and to fix the rental value of the lands for use for oyster, clam, or other edible shellfish cultivation. In his or her report to the department, the director shall recommend a minimum rental for said lands and an estimation of the value of the oysters, clams, or other edible shellfish, if any, then present on the lands applied for. The lands approved by the director for lease may then be leased to the applicant for a period of not less than five years nor more than ten years at a rental not less than the minimum rental recommended by the director of ~~((fisheries))~~ fish and wildlife. In addition, before entering upon possession of the land, the applicant shall pay the value of the oysters, clams, or other edible shellfish, if any, then present on the land as determined by the director, plus the

expense incurred by the director in investigating the quantity of oysters, clams, or other edible shellfish, present on the land applied for.

(2) When issuing new leases or reissuing existing leases the department shall not permit the commercial harvest of subtidal hardshell clams by means of hydraulic escalating when the upland within five hundred feet of any lease tract is zoned for residential development.

**Sec. 69.** RCW 79.96.040 and 1982 1st ex.s. c 2I s 137 are each amended to read as follows:

Before entering into possession of any leased tidelands or beds of navigable waters, the applicant shall cause the same to be surveyed by a registered land surveyor, and he or she shall furnish to the department of natural resources and to the director of ~~((fisheries))~~ fish and wildlife, a map of the leased premises signed and certified by the registered land surveyor. The lessee shall also cause the boundaries of the leased premises to be marked by piling monuments or other markers of a permanent nature as the director of ~~((fisheries))~~ fish and wildlife may direct.

**Sec. 70.** RCW 79.96.050 and 1993 c 295 s 2 are each amended to read as follows:

The department of natural resources may, upon the filing of an application for a renewal lease, cause the tidelands or beds of navigable waters to be inspected, and if he ~~((deems))~~ or she deems it in the best interests of the state to re-lease said lands, he or she shall issue to the applicant a renewal lease for such further period not exceeding thirty years and under such terms and conditions as may be determined by the department: PROVIDED, That in the case of an application for a renewal lease it shall not be necessary for the lands to be inspected and reported upon by the director of ~~((fisheries))~~ fish and wildlife.

**Sec. 71.** RCW 79.96.100 and 1982 1st ex.s. c 2I s 143 are each amended to read as follows:

The department of natural resources, upon the receipt of an application for the lease of any first or second class tidelands owned by the state which have heretofore or which may hereafter be set aside as state oyster reserves, shall notify the director of ~~((fisheries))~~ fish and wildlife of the filing of the application describing the lands applied for. It shall be the duty of the director of ~~((fisheries))~~ fish and wildlife to cause an inspection of the reserve to be made for the purpose of determining whether said reserve or any part thereof should be retained as a state oyster reserve or vacated.

**Sec. 72.** RCW 79.96.110 and 1982 1st ex.s. c 2I s 144 are each amended to read as follows:

In case the director of ~~((fisheries))~~ fish and wildlife approves the vacation of the whole or any part of said reserve, the department of natural resources may vacate and offer for lease such parts or all of said reserve as it deems to be for the best interest of the state, and all moneys received for the lease of such lands

shall be paid to the department of natural resources in accordance with RCW 79.94.190: PROVIDED, That nothing in RCW 79.96.090 through 79.96.110 shall be construed as authorizing the lease of any tidelands which have heretofore, or which may hereafter, be set aside as state oyster reserves in Eld Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston counties: PROVIDED FURTHER, That any portion of Plat 138, Clifton's Oyster Reserve, which has already been vacated, may be leased by the department.

Sec. 73. RCW 79.96.130 and 1990 c 163 s 9 are each amended to read as follows:

(1) If a person wrongfully takes shellfish or causes shellfish to be wrongfully taken from the public lands and the wrongful taking is intentional and knowing, then the person shall be liable for damages of treble the fair market retail value of the amount of shellfish wrongfully taken. If a person wrongfully takes shellfish from the public lands under other circumstances, then the person shall be liable for damages of double the fair market value of the amount of shellfish wrongfully taken.

(2) For purposes of this section, a person "wrongfully takes" shellfish from public lands if the person takes shellfish: (a) Above the limits of any applicable laws that govern the harvest of shellfish from public lands; (b) without reporting the harvest to the department of (~~fisheries~~) fish and wildlife or the department of natural resources where such reporting is required by law or contract; (c) outside the area or above the limits that an agreement or contract from the department of natural resources allows the harvest of shellfish from public lands; or (d) without a lease or purchase of the shellfish where such lease or purchase is required by law prior to harvest of the shellfish.

(3) The remedies in this section are for civil damages and shall be proved by a preponderance of the evidence. The department of natural resources may file a civil action in Thurston county superior court or the county where the shellfish were taken against any person liable under this section. Damages recovered under this section shall be applied in the same way as received under geoduck harvesting agreements authorized by RCW 79.96.080.

(4) For purposes of the remedies created by this section, the amount of shellfish wrongfully taken by a person may be established either:

(a) By surveying the aquatic lands to reasonably establish the amount of shellfish taken from the immediate area where a person is shown to have been wrongfully taking shellfish;

(b) By weighing the shellfish on board any vessel or in possession of a person shown to be wrongfully taking shellfish; or

(c) By any other evidence that reasonably establishes the amount of shellfish wrongfully taken.

The amount of shellfish established by (a) or (b) of this subsection shall be presumed to be the amount wrongfully taken unless the defendant shows by a preponderance of evidence that the shellfish were lawfully taken or that the defendant did not take the shellfish presumed to have been wrongfully taken.

Whenever there is reason to believe that shellfish in the possession of any person were wrongfully taken, the department of natural resources or the department of ~~((fisheries))~~ fish and wildlife may require the person to proceed to a designated off-load point and to weigh all shellfish in possession of the person or on board the person's vessel.

(5) This civil remedy is supplemental to the state's power to prosecute any person for theft of shellfish, for other crimes where shellfish are involved, or for violation of regulations of the department of ~~((fisheries))~~ fish and wildlife.

**Sec. 74.** RCW 79.96.906 and 1984 c 221 s 26 are each amended to read as follows:

The department of natural resources may enter into agreements with the department of ~~((fisheries))~~ fish and wildlife for the development of an intensive management plan for geoducks including the development and operation of a geoduck hatchery.

The department of natural resources shall evaluate the progress of the intensive geoduck management program and provide a written report to the legislature by December 1, 1990, for delivery to the appropriate standing committees. The evaluation shall determine the benefits and costs of continued operation of the program, and shall discuss alternatives including continuance, modification, and termination of the intensive geoduck management program.

**Sec. 75.** RCW 80.50.030 and 1990 c 12 s 3 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. The chairman is a "state employee" for the purposes of chapter 42.18 RCW. As applicable, when attending meetings of the council ~~((and))~~, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.240.

(b) The chairman or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington state energy office shall provide all administrative and staff support for the council. The director of the energy office has supervisory authority over the staff of the council and shall employ such personnel as are necessary to implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW.

(3) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (a) Department of ecology;
- (b) Department of ~~((fisheries;~~
- ~~(c) Department of))~~ fish and wildlife;
- ~~((d))~~ (c) Parks and recreation commission;
- ~~((e))~~ (d) Department of health;
- ~~((f))~~ (e) State energy office;
- ~~((g))~~ (f) Department of community, trade, and economic development;
- ~~((h))~~ (g) Utilities and transportation commission;
- ~~((i))~~ (h) Office of financial management;
- ~~((j))~~ (i) Department of natural resources;
- ~~((k) Department of community development;~~
- ~~((l))~~ (j) Department of agriculture;
- ~~((m))~~ (k) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

**Sec. 76.** RCW 84.34.055 and 1988 c 36 s 62 are each amended to read as follows:

(1) The county legislative authority may direct the county planning commission to set open space priorities and adopt, after a public hearing, an open space plan and public benefit rating system for the county. The plan shall consist of criteria for determining eligibility of lands, the process for establishing a public benefit rating system, and an assessed valuation schedule. The assessed valuation schedule shall be developed by the county assessor and shall be a percentage of market value based upon the public benefit rating system. The open space plan, the public benefit rating system, and the assessed valuations

schedule shall not be effective until approved by the county legislative authority after at least one public hearing: PROVIDED, That any county which has complied with the procedural requisites of ~~((this act))~~ chapter 393, Laws of 1985, prior to July 28, 1985, need not repeat those procedures in order to adopt an open space plan pursuant to ~~((this act))~~ chapter 393, Laws of 1985.

(2) In adopting an open space plan, recognized sources shall be used unless the county does its own survey of important open space priorities or features, or both. Recognized sources include but are not limited to the natural heritage data base; the state office of historic preservation; the interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features; state, national, county, or city registers of historic places; the shoreline master program; or studies by the parks and recreation commission and by the departments of ~~((fisheries,))~~ fish and wildlife~~((,))~~ and natural resources. Features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency to be sent to the county legislative authority for final approval as open space.

(3) When the county open space plan is adopted, owners of open space lands then classified under this chapter shall be notified in the same manner as is provided in RCW 84.40.045 of their new assessed value. These lands may be removed from classification, upon request of owner, without penalty within thirty days of notification of value.

(4) The open space plan and public benefit rating system under this section may be adopted for taxes payable in 1986 and thereafter.

**Sec. 77.** RCW 86.26.040 and 1988 c 36 s 63 are each amended to read as follows:

Whenever state grants under this chapter are used in a flood control maintenance project, the engineer of the county within which the project is located shall approve all plans for the specific project and shall supervise the work. The approval of such plans, construction and expenditures by the department of ecology, in consultation with the department of ~~((fisheries and the department of))~~ fish and wildlife, shall be a condition precedent to state participation in the cost of any project beyond planning and designing the specific project.

Additionally, state grants may be made to counties for preparation of a comprehensive flood control management plan required to be prepared under RCW 86.26.050.

**Sec. 78.** RCW 86.26.050 and 1991 c 322 s 6 are each amended to read as follows:

(1) State participation shall be in such preparation of comprehensive flood control management plans under this chapter and chapter 86.12 RCW, cost sharing feasibility studies for new flood control projects, projects pursuant to section 33, chapter 322, Laws of 1991, and flood control maintenance projects as are affected with a general public and state interest, as differentiated from a

private interest, and as are likely to bring about public benefits commensurate with the amount of state funds allocated thereto.

(2) No participation for flood control maintenance projects may occur with a county or other municipal corporation unless the director of ecology has approved the flood plain management activities of the county, city, or town having planning jurisdiction over the area where the flood control maintenance project will be, on the one hundred year flood plain surrounding such area.

The department of ecology shall adopt rules concerning the flood plain management activities of a county, city, or town that are adequate to protect or preclude flood damage to structures, works, and improvements, including the restriction of land uses within a river's meander belt or floodway to only flood-compatible uses. Whenever the department has approved county, city, and town flood plain management activities, as a condition of receiving an allocation of funds under this chapter, each revision to the flood plain management activities must be approved by the department of ecology, in consultation with the department of ~~((fisheries and the department of))~~ fish and wildlife.

No participation with a county or other municipal corporation for flood control maintenance projects may occur unless the county engineer of the county within which the flood control maintenance project is located certifies that a comprehensive flood control management plan has been completed and adopted by the appropriate local authority, or is being prepared for all portions of the river basin or other area, within which the project is located in that county, that are subject to flooding with a frequency of one hundred years or less.

(3) Participation for flood control maintenance projects and preparation of comprehensive flood control management plans shall be made from grants made by the department of ecology from the flood control assistance account. Comprehensive flood control management plans, and any revisions to the plans, must be approved by the department of ecology, in consultation with the department of ~~((fisheries and the department of))~~ fish and wildlife. The department may only grant financial assistance to local governments that, in the opinion of the department, are making good faith efforts to take advantage of, or comply with, federal and state flood control programs.

**Sec. 79.** RCW 87.84.061 and 1988 c 127 s 69 are each amended to read as follows:

The water in any natural or impounded lake, wholly or partially within the boundaries of an irrigation and rehabilitation district, together with all use of said water and the bottom and shore lines to the line established by the highest level where water has been or shall be stored in said lake, shall be regulated, controlled and used by the irrigation and rehabilitation district in order to further the health, safety, recreation and welfare of the residents in the district and the citizens and guests of the state of Washington, subject to rights of the United States bureau of reclamation and any irrigation districts organized under the laws of the state of Washington.

In addition to the powers expressly or impliedly enumerated above, the directors of an irrigation and rehabilitation district shall have the power and authority to:

(1) Control and regulate the use of boats, skiers, skin divers, aircraft, ice skating, ice boats, swimmers or any other use of said lake, by means of appropriate rules and regulations not inconsistent with state fish, game or aeronautics laws.

(2) Expend district funds for the control of mosquitoes or other harmful insects which may affect the use of any lake located in the district: **PROVIDED**, That the state department of social and health services gives its approval in writing to any district program instituted under the authority of this item. District funds may be expended for mosquito and insect control or other district projects or activities even though it may be necessary to place chemicals or carry on activities on areas located outside of an irrigation and rehabilitation district's boundaries. These funds may be transferred to the jurisdictional health department for the purpose of carrying out the provisions of this item.

(3) Except for state highways, control, regulate or prohibit by means of rules and regulations, the building, construction, placing or allowing to be placed from adjoining land, sand, gravel, dirt, rock, tires, lumber, logs, bottles, cans, garbage and trash, or any loathsome, noxious substances or materials of any kind, and any piling, causeways, fill, roads, culverts, wharfs, bulkheads, buildings, structures, floats, or markers, in, on or above the line established by the highest level where water has been or shall be stored in said lake, located in the district, in order to further the interests of the citizens of the state of Washington, and residents of the district.

(4) Except for state highways, control, regulate and require the placing, maintenance and use of culverts and boat accesses under and through existing fills constructed over and/or across any lake located within the district to facilitate water circulation, navigation and the reduction of flood danger.

(5) Control the taking of carp or other rough fish located in the district and including the right to grant or sell an exclusive or concurrent franchise for the taking of carp or other rough fish, providing the (~~state fisheries~~) department of fish and wildlife give their approval in writing to any district project regarding the capture, or sale of fish.

(6) Control and regulate by means of rules and regulations the direct or indirect introduction into any lake within the district of any human, animal or industrial waste products, sewage, effluent or byproducts, treated or untreated: **PROVIDED**, That the state department of ecology gives its approval in writing to any district program instituted under this section, and nothing herein shall be deemed to amend, repeal, supersede, or otherwise modify any laws or regulations relating to public health or to the department of ecology.

(7) Except for state highways, construct, maintain, place, and/or restore roads, buildings, docks, dams, canals, locks, mechanical lifts or any other type of transportation facility; dredge, purchase land, or lease land, or enter into



agreements with other agencies or conduct any other activity within or without the district boundaries in order to carry out district projects or activities to further the recreational potential of the area.

**Sec. 80.** RCW 88.12.055 and 1993 c 244 s 9 are each amended to read as follows:

(1) Every law enforcement officer of this state and its political subdivisions has the authority to enforce this chapter. Law enforcement officers may enforce recreational boating rules adopted by the commission. Such law enforcement officers include, but are not limited to, county sheriffs, officers of other local law enforcement entities, wildlife agents (~~(of the department of wildlife)~~) and fisheries patrol officers of the department of (~~(fisheries)~~) fish and wildlife, through (~~(their directors)~~) the director, the state patrol, through its chief, and state park rangers. In the exercise of this responsibility, all such officers may stop and board any vessel and direct it to a suitable pier or anchorage to enforce this chapter.

(2) This chapter shall be construed to supplement federal laws and regulations. To the extent this chapter is inconsistent with federal laws and regulations, the federal laws and regulations shall control.

**Sec. 81.** RCW 88.12.305 and 1989 c 393 s 3 are each amended to read as follows:

The commission, in consultation with the departments of ecology, (~~(fisheries,)~~) fish and wildlife, natural resources, social and health services, and the Puget Sound water quality authority shall conduct a literature search and analyze pertinent studies to identify areas which are polluted or environmentally sensitive within the state's waters. Based on this review the commission shall designate appropriate areas as polluted or environmentally sensitive, for the purposes of (~~(this act)~~) chapter 393, Laws of 1989 only.

**Sec. 82.** RCW 90.03.247 and 1987 c 506 s 95 and 1987 c 505 s 81 are each reenacted and amended to read as follows:

Whenever an application for a permit to make beneficial use of public waters is approved relating to a stream or other water body for which minimum flows or levels have been adopted and are in effect at the time of approval, the permit shall be conditioned to protect the levels or flows. No agency may establish minimum flows and levels or similar water flow or level restrictions for any stream or lake of the state other than the department of ecology whose authority to establish is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and 90.54.040. The provisions of other statutes, including but not limited to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a manner that is inconsistent with this section. In establishing such minimum flows, levels, or similar restrictions, the department shall, during all stages of development by the department of ecology of minimum flow proposals, consult with, and carefully consider the recommendations of, (~~(the department of fisheries,)~~) the department of fish and wildlife, the state energy office, the

department of agriculture, and representatives of the affected Indian tribes. Nothing herein shall preclude (~~the department of fisheries,~~) the department of fish and wildlife, the energy office, or the department of agriculture from presenting its views on minimum flow needs at any public hearing or to any person or agency, and (~~the department of fisheries,~~) the department of fish and wildlife, the energy office, and the department of agriculture are each empowered to participate in proceedings of the federal energy regulatory commission and other agencies to present its views on minimum flow needs.

**Sec. 83.** RCW 90.03.280 and 1988 c 36 s 65 are each amended to read as follows:

Upon receipt of a proper application, the department shall instruct the applicant to publish notice thereof in a form and within a time prescribed by (~~him~~) the department in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use is to be made, and in such other newspapers as (~~he~~) the department may direct, once a week for two consecutive weeks. Upon receipt by the department of an application it shall send notice thereof containing pertinent information to (~~the director of fisheries and~~) the director of fish and wildlife.

**Sec. 84.** RCW 90.03.290 and 1988 c 36 s 66 are each amended to read as follows:

When an application complying with the provisions of this chapter and with the rules and regulations of the department has been filed, the same shall be placed on record with the department, and it shall be its duty to investigate the application, and determine what water, if any, is available for appropriation, and find and determine to what beneficial use or uses it can be applied. If it is proposed to appropriate water for irrigation purposes, the department shall investigate, determine and find what lands are capable of irrigation by means of water found available for appropriation. If it is proposed to appropriate water for the purpose of power development, the department shall investigate, determine and find whether the proposed development is likely to prove detrimental to the public interest, having in mind the highest feasible use of the waters belonging to the public. If the application does not contain, and the applicant does not promptly furnish sufficient information on which to base such findings, the department may issue a preliminary permit, for a period of not to exceed three years, requiring the applicant to make such surveys, investigations, studies, and progress reports, as in the opinion of the department may be necessary. If the applicant fails to comply with the conditions of the preliminary permit, it and the application or applications on which it is based shall be automatically canceled and the applicant so notified. If the holder of a preliminary permit shall, before its expiration, file with the department a verified report of expenditures made and work done under the preliminary permit, which, in the opinion of the department, establishes the good faith, intent and ability of the applicant to carry on the proposed development, the preliminary permit may,

with the approval of the governor, be extended, but not to exceed a maximum period of five years from the date of the issuance of the preliminary permit. The department shall make and file as part of the record in the matter, written findings of fact concerning all things investigated, and if it shall find that there is water available for appropriation for a beneficial use, and the appropriation thereof as proposed in the application will not impair existing rights or be detrimental to the public welfare, it shall issue a permit stating the amount of water to which the applicant shall be entitled and the beneficial use or uses to which it may be applied: PROVIDED, That where the water applied for is to be used for irrigation purposes, it shall become appurtenant only to such land as may be reclaimed thereby to the full extent of the soil for agricultural purposes. But where there is no unappropriated water in the proposed source of supply, or where the proposed use conflicts with existing rights, or threatens to prove detrimental to the public interest, having due regard to the highest feasible development of the use of the waters belonging to the public, it shall be duty of the department to reject such application and to refuse to issue the permit asked for. If the permit is refused because of conflict with existing rights and such applicant shall acquire same by purchase or condemnation under RCW 90.03.040, the department may thereupon grant such permit. Any application may be approved for a less amount of water than that applied for, if there exists substantial reason therefor, and in any event shall not be approved for more water than can be applied to beneficial use for the purposes named in the application. In determining whether or not a permit shall issue upon any application, it shall be the duty of the department to investigate all facts relevant and material to the application. After the department approves said application in whole or in part and before any permit shall be issued thereon to the applicant, such applicant shall pay the fee provided in RCW 90.03.470: PROVIDED FURTHER, That in the event a permit is issued by the department upon any application, it shall be its duty to notify (~~both the director of fisheries and~~) the director of fish and wildlife of such issuance.

Sec. 85. RCW 90.03.360 and 1993 sp.s. c 4 s 12 are each amended to read as follows:

(1) The owner or owners of any water diversion shall maintain, to the satisfaction of the department of ecology, substantial controlling works and a measuring device constructed and maintained to permit accurate measurement and practical regulation of the flow of water diverted. Every owner or manager of a reservoir for the storage of water shall construct and maintain, when required by the department, any measuring device necessary to ascertain the natural flow into and out of said reservoir.

Metering of diversions or measurement by other approved methods shall be required as a condition for all new surface water right permits, and except as provided in subsection (2) of this section, may be required as a condition for all previously existing surface water rights. The department may also require, as a condition for all water rights, metering of diversions, and reports regarding such

metered diversions as to the amount of water being diverted. Such reports shall be in a form prescribed by the department.

(2) Where water diversions are from waters in which the salmonid stock status is depressed or critical, as determined by the department(~~(s of fisheries))~~ of fish and wildlife, or where the volume of water being diverted exceeds one cubic foot per second, the department shall require metering or measurement by other approved methods as a condition for all new and previously existing water rights or claims. The department shall attempt to integrate the requirements of this subsection into its existing compliance workload priorities, but shall prioritize the requirements of this subsection ahead of the existing compliance workload where a delay may cause the decline of wild salmonids. The department shall notify the department(~~(s of fisheries))~~ of fish and wildlife of the status of fish screens associated with these diversions.

This subsection (2) shall not apply to diversions for public or private hatcheries or fish rearing facilities if the diverted water is returned directly to the waters from which it was diverted.

**Sec. 86.** RCW 90.22.010 and 1988 c 47 s 6 are each amended to read as follows:

The department of ecology may establish minimum water flows or levels for streams, lakes or other public waters for the purposes of protecting fish, game, birds or other wildlife resources, or recreational or aesthetic values of said public waters whenever it appears to be in the public interest to establish the same. In addition, the department of ecology shall, when requested by the (~~department of fisheries or the~~) department of fish and wildlife to protect fish, game or other wildlife resources under the jurisdiction of the requesting state agency, or if the department of ecology finds it necessary to preserve water quality, establish such minimum flows or levels as are required to protect the resource or preserve the water quality described in the request or determination. Any request submitted by the (~~department of fisheries or~~) department of fish and wildlife shall include a statement setting forth the need for establishing a minimum flow or level. When the department acts to preserve water quality, it shall include a similar statement with the proposed rule filed with the code reviser. This section shall not apply to waters artificially stored in reservoirs, provided that in the granting of storage permits by the department of ecology in the future, full recognition shall be given to downstream minimum flows, if any there may be, which have theretofore been established hereunder.

The current guidelines, standards, or criteria governing the instream flow programs established pursuant to this chapter shall not be altered or amended after March 15, 1988, in accordance with RCW 90.54.022(5).

**Sec. 87.** RCW 90.22.020 and 1987 c 506 s 97 are each amended to read as follows:

Flows or levels authorized for establishment under RCW 90.22.010, or subsequent modification thereof by the department shall be provided for through

the adoption of rules. Before the establishment or modification of a water flow or level for any stream or lake or other public water, the department shall hold a public hearing in the county in which the stream, lake, or other public water is located. If it is located in more than one county the department shall determine the location or locations therein and the number of hearings to be conducted. Notice of the hearings shall be given by publication in a newspaper of general circulation in the county or counties in which the stream, lake, or other public waters is located, once a week for two consecutive weeks before the hearing. The notice shall include the following:

- (1) The name of each stream, lake, or other water source under consideration;
- (2) The place and time of the hearing;
- (3) A statement that any person, including any private citizen or public official, may present his or her views either orally or in writing.

Notice of the hearing shall also be served upon the administrators of the departments of (~~fisheries~~) social and health services, natural resources, fish and wildlife, and transportation.

**Sec. 88.** RCW 90.24.030 and 1988 c 36 s 67 are each amended to read as follows:

The petition shall be entitled "In the matter of fixing the level of Lake . . . . . in . . . . . county, Washington", and shall be filed with the clerk of the court and a copy thereof, together with a copy of the order fixing the time for hearing the petition, shall be served on each owner of property abutting on the lake, not less than ten days before the hearing. Like copies shall also be served upon the director of (~~fisheries~~) fish and (~~of~~) wildlife and the director of ecology. The copy of the petition and of the order fixing time for hearing shall be served in the manner provided by law for the service of summons in civil actions, or in such other manner as may be prescribed by order of the court. For the benefit of every riparian owner abutting on a stream or river flowing from such lake, a copy of the notice of hearing shall be published at least once a week for two consecutive weeks before the time set for hearing in a newspaper in each county or counties wherein located, said notice to contain a brief statement of the reasons and necessity for such application.

**Sec. 89.** RCW 90.24.060 and 1988 c 36 s 68 are each amended to read as follows:

Such improvement or device in said lake for the protection of the fish and game fish therein shall be installed by and under the direction of the board of county commissioners of said county with the approval of the respective directors of the (~~department of fisheries, the~~) department of fish and wildlife and the department of ecology of the state of Washington and paid for out of the special fund provided for in RCW 90.24.050.

**Sec. 90.** RCW 90.38.040 and 1989 c 429 s 5 are each amended to read as follows:

(1) All trust water rights acquired by the department shall be placed in the Yakima river basin trust water rights program to be managed by the department. The department shall issue a water right certificate in the name of the state of Washington for each trust water right it acquires.

(2) Trust water rights shall retain the same priority date as the water right from which they originated. Trust water rights may be modified as to purpose or place of use or point of diversion, including modification from a diversionary use to a nondiversionary instream use.

(3) Trust water rights may be held by the department for instream flows and/or irrigation use.

(4) A schedule of the amount of net water saved as a result of water conservation projects carried out in accordance with this chapter, shall be developed annually to reflect the predicted hydrologic and water supply conditions, as well as anticipated water demands, for the upcoming irrigation season. This schedule shall serve as the basis for the distribution and management of trust water rights each year.

(5) No exercise of a trust water right may be authorized unless the department first determines that no existing water rights, junior or senior in priority, will be impaired as to their exercise or injured in any manner whatever by such authorization. Before any trust water right is exercised, the department shall publish notice thereof in a newspaper of general circulation published in the county or counties in which the storage, diversion, and use are to be made, and in such other newspapers as the department determines are necessary, once a week for two consecutive weeks. At the same time the department may also send notice thereof containing pertinent information to the ~~((director of fisheries and the))~~ director of fish and wildlife.

(6) RCW 90.03.380 and 90.14.140 through 90.14.910 shall have no applicability to trust water rights held by the department under this chapter or exercised under this section.

**Sec. 91.** RCW 90.48.170 and 1988 c 36 s 70 are each amended to read as follows:

Applications for permits shall be made on forms prescribed by the department and shall contain the name and address of the applicant, a description of ~~((his))~~ the applicant's operations, the quantity and type of waste material sought to be disposed of, the proposed method of disposal, and any other relevant information deemed necessary by the department. Application for permits shall be made at least sixty days prior to commencement of any proposed discharge or permit expiration date, whichever is applicable. Upon receipt of a proper application relating to a new operation, or an operation previously under permit for which an increase in volume of wastes or change in character of effluent is requested over that previously authorized, the department shall instruct the applicant to publish notices thereof by such means and within such time as the department shall prescribe. The department shall require that the notice so prescribed shall be published twice in a newspaper of general circulation within

the county in which the disposal of waste material is proposed to be made and in such other appropriate information media as the department may direct. Said notice shall include a statement that any person desiring to present his or her views to the department with regard to said application may do so in writing to the department, or any person interested in the department's action on an application for a permit, may submit his or her views or notify the department of his or her interest within thirty days of the last date of publication of notice. Such notification or submission of views to the department shall entitle said persons to a copy of the action taken on the application. Upon receipt by the department of an application, it shall immediately send notice thereof containing pertinent information to the (~~directors of fisheries~~) director of fish and wildlife and to the secretary of social and health services. When an application complying with the provisions of this chapter and the rules and regulations of the department has been filed with the department, it shall be its duty to investigate the application, and determine whether the use of public waters for waste disposal as proposed will pollute the same in violation of the public policy of the state.

**Sec. 92.** RCW 90.48.368 and 1992 c 73 s 29 are each amended to read as follows:

(1) The department shall adopt rules establishing a formal process for preassessment screening of damages resulting from spills to the waters of the state causing the death of, or injury to, fish, animals, vegetation, or other resources of the state. The rules shall specify the conditions under which the department shall convene a preassessment screening committee. The preassessment screening process shall occur concurrently with reconnaissance activities. The committee shall use information obtained from reconnaissance activities as well as any other relevant resource and resource use information. For each incident, the committee shall determine whether a damage assessment investigation should be conducted, or, whether the compensation schedule authorized under RCW 90.48.366 and 90.48.367 should be used to assess damages. The committee may accept restoration or enhancement projects or studies proposed by the liable parties in lieu of some or all of: (a) The compensation schedule authorized under RCW 90.48.366 and 90.48.367; or (b) the claims from damage assessment studies authorized under RCW 90.48.142.

(2) A preassessment screening committee may consist of representatives of the departments of ecology, (~~fisheries~~) fish and wildlife, natural resources, social and health services, and emergency management, the parks and recreation commission, the office of archaeology and historic preservation, as well as other federal, state, and local agencies, and tribal and local governments whose presence would enhance the reconnaissance or damage assessment aspects of spill response. The department shall chair the committee and determine which representatives will be needed on a spill-by-spill basis.

(3) The committee shall consider the following factors when determining whether a damage assessment study authorized under RCW 90.48.367 should be

conducted: (a) Whether evidence from reconnaissance investigations suggests that injury has occurred or is likely to occur to publicly owned resources; (b) the potential loss in services provided by resources injured or likely to be injured and the expected value of the potential loss; (c) whether a restoration project to return lost services is technically feasible; (d) the accuracy of damage quantification methods that could be used and the anticipated cost-effectiveness of applying each method; (e) the extent to which likely injury to resources can be verified with available quantification methods; and (f) whether the injury, once quantified, can be translated into monetary values with sufficient precision or accuracy.

(4) When a resource damage assessment is required for an oil spill in the navigable waters of the state, as defined in RCW 90.56.010, the state trustee agency responsible for the resource and habitat damaged shall conduct the damage assessment and pursue all appropriate remedies with the responsible party.

(5) Oil spill damage assessment studies authorized under RCW 90.48.367 may only be conducted if the committee, after considering the factors enumerated in subsection (3) of this section, determines that the damages to be investigated are quantifiable at a reasonable cost and that proposed assessment studies are clearly linked to quantification of the damages incurred.

(6) As new information becomes available, the committee may reevaluate the scope of damage assessment using the factors listed in subsection (3) of this section and may reduce or expand the scope of damage assessment as appropriate.

(7) The preassessment screening process shall provide for the ongoing involvement of persons who may be liable for damages resulting from an oil spill. The department may negotiate with a potentially liable party to perform restoration and enhancement projects or studies which may substitute for all or part of the compensation authorized under RCW 90.48.366 and 90.48.367 or the damage assessment studies authorized under RCW 90.48.367.

(8) For the purposes of this section and RCW 90.48.367, the cost of a damage assessment shall be considered "reasonable" when the anticipated cost of the damage assessment is expected to be less than the anticipated damage that may have occurred or may occur.

**Sec. 93.** RCW 90.48.400 and 1992 c 73 s 30 are each amended to read as follows:

(1) Moneys in the coastal protection fund shall be disbursed for the following purposes and no others:

(a) Environmental restoration and enhancement projects intended to restore or enhance environmental, recreational, archaeological, or aesthetic resources for the benefit of Washington's citizens;

(b) Investigations of the long-term effects of oil spills; and

(c) Development and implementation of an aquatic land geographic information system.



(2) The director may allocate a portion of the fund to be devoted to research and development in the causes, effects, and removal of pollution caused by the discharge of oil or other hazardous substances.

(3) A steering committee consisting of representatives of the departments of ecology, (~~fisheries,~~) fish and wildlife, and natural resources, and the parks and recreation commission shall authorize the expenditure of the moneys collected under RCW 90.48.366 through 90.48.368, after consulting impacted local agencies and local and tribal governments.

(4) Agencies may not be reimbursed from the coastal protection fund for the salaries and benefits of permanent employees for routine operational support. Agencies may only be reimbursed under this section if money for reconnaissance and damage assessment activities is unavailable from other sources.

**Sec. 94.** RCW 90.56.100 and 1992 c 73 s 32 are each amended to read as follows:

(1) The Washington wildlife rescue coalition shall be established for the purpose of coordinating the rescue and rehabilitation of wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment.

(2) The Washington wildlife rescue coalition shall be composed of:

(a) A representative of the department of fish and wildlife designated by the director of fish and wildlife. The department of fish and wildlife shall be designated as lead agency in the operations of the coalition. The coalition shall be chaired by the representative from the department of fish and wildlife;

(b) A representative of the department of ecology designated by the director;

(c) A representative of the department of community, trade, and economic development emergency management program designated by the director of community, trade, and economic development;

(d) A licensed veterinarian, with experience and training in wildlife rehabilitation, appointed by the veterinary board of governors;

(e) The director of the Washington conservation corps;

(f) A lay person, with training and experience in the rescue and rehabilitation of wildlife appointed by the department; and

(g) A person designated by the legislative authority of the county where oil spills or spills of other hazardous substances may occur. This member of the coalition shall serve on the coalition until wildlife rescue and rehabilitation is completed in that county. The completion of any rescue or rehabilitation project shall be determined by the director of fish and wildlife.

(3) The duties of the Washington wildlife rescue coalition shall be to:

(a) Develop an emergency mobilization plan to rescue and rehabilitate waterfowl and other wildlife that are injured or endangered by an oil spill or the release of other hazardous substances into the environment;

(b) Develop and maintain a resource directory of persons, governmental agencies, and private organizations that may provide assistance in an emergency rescue effort;

(c) Provide advance training and instruction to volunteers in rescuing and rehabilitating waterfowl and wildlife injured or endangered by oil spills or the release of other hazardous substances into the environment. The training may be provided through grants to community colleges or to groups that conduct programs for training volunteers. The coalition representatives from the agencies described in subsection (2) of this section shall coordinate training efforts with the director of the Washington conservation corps and work to provide training opportunities for young citizens;

(d) Obtain and maintain equipment and supplies used in emergency rescue efforts;

(e) Report to the appropriate standing committees of the legislature on the progress of the coalition's efforts and detail future funding options necessary for the implementation of this section and RCW 90.56.110. The coalition shall report by January 30, 1991.

(4)(a) Expenses for the coalition may be provided by the coastal protection fund administered according to RCW 90.48.400.

(b) The coalition is encouraged to seek grants, gifts, or donations from private sources in order to carry out the provisions of this section and RCW 90.56.110. Any private funds donated to the commission shall be deposited into the wildlife rescue account hereby created within the wildlife fund as authorized under Title 77 RCW.

**Sec. 95.** RCW 90.56.110 and 1990 c 116 s 13 are each amended to read as follows:

The department of fish and wildlife may adopt rules including, but not limited to, the following:

(1) Procedures and methods of handling and caring for waterfowl or other wildlife affected by spills of oil and other hazardous materials;

(2) The certification of persons trained in the removal of pollutants from waterfowl or other wildlife;

(3) Development of procedures with respect to removal of oil and other hazardous substances from waterfowl or other wildlife;

(4) The establishment of training exercises, courses, and other training procedures as necessary;

(5) Such other rules as may be reasonably necessary to carry out the intent of RCW 90.56.100.

**Sec. 96.** RCW 90.62.020 and 1988 c 36 s 71 are each amended to read as follows:

For purposes of this chapter the following words mean, unless the context clearly dictates otherwise:

(1) "Board" means the pollution control hearings board.

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

(3) "Local government" means a county, city or town.

(4) "Permit" means any license, permit, certificate, certification, approval, compliance schedule, or other similar document pertaining to any regulatory or management program related to the protection, conservation, or use of, or interference with, the natural resources of land, air or water in the state, which is required to be obtained from a state agency prior to constructing or operating a project in the state of Washington. Permit shall also mean a substantial development permit under RCW 90.58.140 and any permit, required by a local government for a project, that the local government has chosen to process pursuant to RCW 90.62.100(2) as now or hereafter amended. Nothing in this chapter shall relate to a permit issued by the department of labor and industries or by the utilities and transportation commission; nor to the granting of proprietary interests in publicly owned property such as sales, leases, easements, use permits and licenses.

(5) "Person" means any individual, municipal, public, or private corporation, or other entity however denominated, including a state agency and county.

(6) "Processing" and "processing of applications" mean the entire process to be followed in relation to the making of decisions on an application for a permit and review thereof as provided in RCW 90.62.040 through 90.62.080.

(7) "Project" means any new activity or any expansion of or addition to an existing activity, fixed in location, for which permits are required prior to construction or operation from (a) two or more state agencies as defined in subsection (8) of this section, or (b) one or more state agencies and a local government, if the local government is processing permits or requests for variances or rezones pursuant to the procedure established by the provisions of this chapter, as provided by RCW 90.62.100(2) as now or hereafter amended. Such construction or operation may include, but need not be limited to, industrial and commercial operations and developments. For the purpose of part (a) of this subsection, the submission of plans and specifications for a hydraulic project or other work to the department ~~(s of fisheries)~~ of fish and wildlife pursuant to RCW 75.20.100 shall be considered to be an application for a permit required by one state agency.

(8) "State agency" means any state department, commission, board or other agency of the state however titled. For the limited purposes of this chapter only "state agency" shall also mean (a) any local or regional air pollution control authority established under chapter 70.94 RCW and (b) any local government when said government is acting in its capacity as a decision maker on an application for a permit pursuant to RCW 90.58.140.

**Sec. 97.** RCW 90.70.045 and 1990 c 115 s 3 are each amended to read as follows:

(1) The executive director shall hire staff for the authority. In so doing, the executive director shall recognize the many continuing planning and research activities concerning Puget Sound water quality and shall seek to acquire competent and knowledgeable staff from state, federal, and local government agencies and other agencies that are currently involved in these activities.

(2) As deemed appropriate, the executive director may request the state departments of ecology, community, trade, and economic development, ~~((fisheries,))~~ fish and wildlife, agriculture, natural resources, parks and recreation, and health to each assign at least one employee to the authority. The executive director shall enter into an interagency agreement with agencies assigning employees to the authority. Such agreement shall provide for reimbursement, by the authority to the assigning agency, of all work-related expenditures associated with the assignment of the employees. During the term of their assignment, the executive director has full authority and responsibility for the activities of these employees.

(3) The executive director shall seek assignment of appropriate federal and local government employees under available means.

**Sec. 98.** RCW 90.70.065 and 1990 c 115 s 9 are each amended to read as follows:

(1) In addition to other powers and duties specified in this chapter, the authority shall ensure implementation of the Puget Sound ambient monitoring program established in the plan under RCW 90.70.060(12). The program shall:

(a) Develop a baseline and examine differences among areas of Puget Sound, for environmental conditions, natural resources, and contaminants in seafood, against which future changes can be measured;

(b) Take measurements relating to specific program elements identified in the plan;

(c) Measure the progress of the ambient monitoring programs implemented under the plan;

(d) Provide a permanent record of significant natural and human-caused changes in key environmental indicators in Puget Sound; and

(e) Help support research on Puget Sound.

(2) To ensure proper coordination of the ambient monitoring program, the authority may establish an interagency coordinating committee consisting of representatives from the departments of ecology, ~~((fisheries))~~ fish and wildlife, natural resources, ~~((wildlife,))~~ and health, and such federal, local, tribal, and other organizations as are necessary to implement the program.

(3) Each state agency with responsibilities for implementing the Puget Sound ambient monitoring program, as specified in the plan, shall participate in the program.

**NEW SECTION.** Sec. 99. RCW 43.220.140 is decodified.

**\*NEW SECTION.** Sec. 100. *This act shall take effect July 1, 1994.*

\*Sec. 100 was vetoed, see message at end of chapter.

Passed the House February 9, 1994.

Passed the Senate February 26, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to sections 7, 16, 58, 59, and 100, House Bill No. 2590, entitled:

"AN ACT Relating to obsolete references;"

This bill changes all references to the Department of Fisheries or to the Department of Wildlife to the Department of Fish and Wildlife. Additionally, all references to the Department of Community Development or to the Department of Trade and Economic Development are changed to the Department of Community, Trade and Economic Development. A number of minor technical changes are also included.

Section 7 of House Bill 2590 updates the name of the Department of Fish and Wildlife in a list of departments to be represented on the pesticide advisory board in RCW 17.21.230. This change is also made in Substitute Senate Bill No. 6100, section 26, which makes substantive changes to the composition of the pesticide advisory board.

Section 16 of House Bill No. 2590 updates the names of the Department of Fish and Wildlife and the Department of Community, Trade and Economic Development in RCW 43.21A.170. However, Engrossed Substitute House Bill No. 2676 repeals this RCW section in abolishing the Ecological Commission.

Section 58 of House Bill No. 2590 updates the name of the Department of Fish and Wildlife in RCW 79.01.805, dealing with the harvest of seaweed. Substitute Senate Bill No. 6204, section 1, makes the same change and adds further substantive changes to RCW 79.01.805.

Section 59 of House Bill No. 2590 updates the name of the Department of Fish and Wildlife in RCW 79.01.815, also dealing with seaweed. Substitute Senate Bill No. 6204, section 3, makes the same change and adds further substantive changes to RCW 79.01.815.

Section 100 of House Bill No. 2590 provides an effective date of July 1, 1994. At the time the bill was passed, the mergers of the agencies noted above were scheduled to occur on July 1, 1994. With the passage of Senate Bill No. 6345 and Senate Bill No. 6346, the mergers were expedited to March 1, 1994. The delayed effective date is, therefore, no longer necessary.

Due to the duplicative nature of the amendments offered, I have vetoed sections 7, 16, 58, and 59 of House Bill No. 2590. Additionally, as a delayed effective date is no longer necessary, I have vetoed section 100 of House Bill No. 2590.

With the exception of sections 7, 16, 58, 59, and 100, House Bill No. 2590 is approved."

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## CHAPTER 265

[Engrossed Substitute House Bill 2696]

### CHEMICALLY RELATED ILLNESS

AN ACT Relating to chemically related illness; adding new sections to chapter 51.32 RCW; adding a new section to chapter 51.04 RCW; and creating a new section.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 51.32 RCW to read as follows:

(1) By July 1, 1994, the department shall establish interim criteria and procedures for management of claims involving chemically related illness to ensure consistency and fairness in the adjudication of these claims. The criteria and procedures shall apply to employees covered by the state fund and

employees of self-insured employers. The department shall adopt final criteria and procedures by December 31, 1994, and report the criteria and procedures as required under section 5 of this act.

(2) The special procedures developed by the department shall include procedures to determine which claims involving chemically related illness require expert management. The department shall assign claims managers with special training or expertise to manage these claims.

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

(1) The department of labor and industries and the department of health shall be the colead agencies for an advisory committee that shall consult with and advise the participating agencies on issues relating to chemically related illness. Appointments to the committee shall be made jointly by the directors of the department of health and the department of labor and industries. The committee shall include at least one member who represents each of the following: (a) Injured workers with chemically related illness; (b) large employers who qualify as self-insurers under Title 51 RCW; (c) small employers who insure their workers' compensation obligation through the state fund; (d) organized labor; (e) the department of health; (f) the department of labor and industries; (g) physicians licensed to practice under chapter 18.71 RCW; and (h) physicians licensed to practice under chapter 18.57 RCW. The committee shall review and make recommendations regarding the responsibilities of the several agencies for providing services to persons with chemically related illness and any other issues related to providing services to persons with chemically related illness that the committee may choose to review.

(2) This section shall expire June 30, 1995.

**NEW SECTION.** Sec. 3. A new section is added to chapter 51.32 RCW to read as follows:

The department shall work with the department of health to establish one or more centers for research and clinical assessment of chemically related illness.

**NEW SECTION.** Sec. 4. A new section is added to chapter 51.32 RCW to read as follows:

(1) The department shall conduct research on chemically related illnesses, which shall include contracting with recognized medical research institutions. The department shall develop an implementation plan for research based on sound scientific research criteria, such as double blind studies, and shall include adequate provisions for peer review, and submit the plan to the worker's compensation advisory committee for review and approval. Following approval of the plan, all specific proposals for projects under the plan shall be submitted for review to a scientific advisory committee, established to provide scientific oversight of research projects, and to the workers' compensation advisory

committee. The department shall include a research project that encourages regional cooperation in addressing chemically related illness.

(2) Expenditures for research projects shall be within legislative appropriations from the medical aid fund, with self-insured employers and the state fund each paying a pro rata share, based on the number of worker hours, of the authorized expenditures. For the purposes of this subsection only, self-insured employers may deduct from the pay of each of their employees one-half of the share charged to the employer for the expenditures from the medical aid fund.

**NEW SECTION. Sec. 5.** In consultation with the workers' compensation advisory committee, the department of labor and industries and the department of health shall jointly make an interim report to the governor and the appropriate committees of the legislature by December 31, 1994, and a final report by June 30, 1995, on:

(1) The status of the department of labor and industries' final criteria and procedures for management of claims involving chemically related illness;

(2) The status of research projects authorized under section 4 of this act;

(3) A plan by the department of health for including accurate occupational information in all relevant current and developing automated health data bases;

(4) A state board of health plan to make occupational diseases reportable conditions;

(5) Other initiatives related to chemically related illness; and

(6) Any recommendations for legislation.

Passed the House March 10, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 266

[Substitute Senate Bill 5038]

### LOCAL GOVERNMENT SERVICE AGREEMENTS

AN ACT Relating to local government service agreements; amending RCW 3.62.070; adding a new chapter to Title 36 RCW; adding a new section to chapter 46.68 RCW; adding a new section to chapter 66.08 RCW; adding new sections to chapter 82.14 RCW; adding a new section to chapter 82.44 RCW; and providing an effective date.

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

**NEW SECTION. Sec. 1.** The purpose of chapter . . . , Laws of 1994 (this act) is to establish a flexible process by which local governments enter into service agreements that will establish which jurisdictions should provide various local government services and facilities within specified geographic areas and how those services and facilities will be financed.

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

(1) "City" means a city or town, including a city operating under Title 35A RCW.

(2) "Governmental service" includes a service provided by local government, and any facilities and equipment related to the provision of such services, including but not limited to utility services, health services, social services, law enforcement services, fire prevention and suppression services, community development activities, environmental protection activities, economic development activities, and transportation services and facilities, but shall not include the generation, conservation, or distribution of electrical energy nor maritime shipping activities.

(3) "Regional service" means a governmental service established by agreement among local governments that delineates the government entity or entities responsible for the service provision and allows for that delivery to extend over jurisdictional boundaries.

(4) "Local government" means a county, city, or special district.

(5) "Service agreement" means an agreement among counties, cities, and special districts established pursuant to this chapter.

(6) "Special district" means a municipal or quasi-municipal corporation in the state, other than a county, city, or school district.

**NEW SECTION.** Sec. 3. A service agreement addressing children and family services shall enhance coordination and shall be consistent with the comprehensive plan developed under chapter . . . , Laws of 1994 (Engrossed Second Substitute House Bill No. 2319 or Second Substitute Senate Bill No. 6174).

**NEW SECTION.** Sec. 4. (1) Agreements among local governments concerning one or more governmental service should be established for a designated geographic area as provided in this section.

(2) A service agreement must describe: (a) The governmental service or services addressed by the agreement; (b) the geographic area covered by the agreement; (c) which local government or local governments are to provide each of the governmental services addressed by the agreement within the geographic area covered by the agreement; and (d) the term of the agreement, if any.

(3) A service agreement becomes effective when approved by: (a) The county legislative authority of each county that includes territory located within the geographic area covered by the agreement; (b) the governing body or bodies of at least a simple majority of the total number of cities that includes territory located within the geographic area covered by the agreement, which cities include at least seventy-five percent of the total population of all cities that includes territory located within the geographic area covered by the agreement; and (c) for each governmental service addressed by the agreement, the governing body or bodies of at least a simple majority of the special districts that include territory located within the geographic area covered by the agreement and which provide the governmental service within such territory. The participants may



agree to use another formula. An agreement pursuant to this section shall be effective upon adoption by the county legislative authority following a public hearing.

(4) A service agreement may cover a geographic area that includes territory located in more than a single county.

**NEW SECTION.** Sec. 5. A service agreement may include, but is not limited to, any or all of the following matters:

(1) A dispute resolution arrangement;

(2) How joint land-use planning and development regulations by the county and a city or cities, or by two or more cities, may be established, made binding, and enforced;

(3) How common development standards between the county and a city or cities, or between two or more cities, may be established, made binding, and enforced;

(4) How capital improvement plans of the county, cities, and special districts shall be coordinated;

(5) How plans and policies adopted under chapter 36.70A RCW will be implemented by the service agreement;

(6) A transfer of revenues between local governments in relationship to their obligations for providing governmental services;

(7) The designation of additional area-wide governmental services to be provided by the county.

**NEW SECTION.** Sec. 6. (1) The county legislative authority of every county with a population of one hundred fifty thousand or more shall convene a meeting on or before March 1, 1995, to develop a process for the establishment of service agreements. Invitations to attend this meeting shall be sent to the governing body of each city located in the county, and to the governing body of each special district located in the county that provides one or more of the governmental services as defined in section 2(2) of this act.

The legislative authorities of counties of less than one hundred fifty thousand population may utilize this chapter by adopting a resolution stating their intent to do so. In that case or in the case of counties whose populations reach one hundred fifty thousand after March 1, 1995, this meeting shall be convened no later than sixty days after the date the county adopts its resolution of intention or was certified by the office of financial management as having a population of one hundred fifty thousand or more.

(2) On or before January 1, 1997, a service agreement must be adopted in each county under this chapter or a progress report must be submitted to the appropriate committees of the legislature.

(3) In other counties that choose to utilize this chapter or whose population reaches one hundred fifty thousand, the service agreement must be adopted two years after the initial meeting provided for in subsection (1) of this section is

convened or a progress report must be submitted to the appropriate committees of the legislature.

**NEW SECTION.** Sec. 7. It is the intent of the legislature to permit the creation of a flexible process to establish service agreements and to recognize that local governments possess broad authority to shape a variety of government service agreements to meet their local needs and circumstances. However, it is noted that in general, cities are the unit of local government most appropriate to provide urban governmental services and counties are the unit of local government most appropriate to provide regional governmental services.

The process to establish service agreements should assure that all directly affected local governments, and Indian tribes at their option, are allowed to be heard on issues relevant to them.

**NEW SECTION.** Sec. 8. Nothing contained in this chapter alters the duties, requirements, and authorities of cities and counties contained in chapter 36.70A RCW.

**NEW SECTION.** Sec. 9. A new section is added to chapter 46.68 RCW to read as follows:

Funds that are distributed to counties, cities, or towns pursuant to this chapter may be transferred by the recipient county, city, or town to another unit of local government pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**NEW SECTION.** Sec. 10. A new section is added to chapter 66.08 RCW to read as follows:

Funds that are distributed to counties, cities, or towns pursuant to this chapter may be transferred by the recipient county, city, or town to another unit of government pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**NEW SECTION.** Sec. 11. A new section is added to chapter 82.14 RCW to read as follows:

The rate of sales and use tax imposed by a city under RCW 82.14.030 (1) and (2) may be altered pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**NEW SECTION.** Sec. 12. A new section is added to chapter 82.14 RCW to read as follows:

The percentage of a city's sales and use tax receipts that a county receives under RCW 82.14.030 (1) and (2) may be altered pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**NEW SECTION.** Sec. 13. A new section is added to chapter 82.14 RCW to read as follows:

Funds that are distributed to counties or cities pursuant to RCW 82.14.200 or 82.14.210 may be transferred by the recipient county or city to another unit

of local government pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**NEW SECTION.** Sec. 14. A new section is added to chapter 82.44 RCW to read as follows:

Funds that are distributed to cities or towns pursuant to RCW 82.44.150 may be transferred by the recipient city or town to another unit of local government pursuant to a government service agreement as provided in sections 4 and 5 of this act.

**Sec. 15.** RCW 3.62.070 and 1993 c 317 s 8 are each amended to read as follows:

Except in traffic cases wherein bail is forfeited or a monetary penalty paid to a violations bureau, and except in cases filed in municipal departments established pursuant to chapter 3.46 RCW and except in cases where a city has contracted with another city for such services pursuant to chapter 39.34 RCW, in every criminal or traffic infraction action filed by a city for an ordinance violation, the city shall be charged a filing fee. Fees shall be determined pursuant to an agreement as provided for in chapter 39.34 RCW, the interlocal cooperation act, between the city and the county providing the court service. In such criminal or traffic infraction actions the cost of providing services necessary for the preparation and presentation of a defense at public expense are not within the filing fee and shall be paid by the city. In all other criminal or traffic infraction actions, no filing fee shall be assessed or collected: PROVIDED, That in such cases, for the purposes of RCW 3.62.010, four dollars or the agreed filing fee of each fine or penalty, whichever is greater, shall be deemed filing costs.

~~((If, one hundred twenty days before the expiration of an existing contract under this section, the city and the county are unable to agree on terms for renewal, the matter shall be submitted to binding arbitration.))~~ In the event no agreement is reached between a city and the county providing the court service, either party may invoke binding arbitration on the fee issue by notice to the other party. In the case of establishing initial fees, the notice shall be thirty days. In the case of renewal or proposed nonrenewal, the notice shall be given one hundred twenty days prior to the expiration of the existing contract. In the event that such issue is submitted to arbitration, the arbitrator or arbitrators shall only consider those additional costs borne by the county in providing district court services for such city. The city and the county shall each select one arbitrator, the two of whom shall pick a third arbitrator. The existing contract shall remain in effect until a new agreement is reached or until an arbitration award is made.

**NEW SECTION.** Sec. 16. Section 15 of this act shall take effect January 1, 1995.

**NEW SECTION.** Sec. 17. Sections 1 through 8 of this act shall constitute a new chapter in Title 36 RCW.

Passed the Senate March 5, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 267**

[Engrossed Substitute Senate Bill 5061]

**ABUSIVE PARENTS—VISITATION RESTRICTIONS**

AN ACT Relating to restrictions on residential time for abusive parents; amending RCW 26.10.160, 26.12.170, and 26.12.220; reenacting and amending RCW 26.09.191; adding a new section to chapter 26.12 RCW; and declaring an emergency.

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

**Sec. 1.** RCW 26.09.191 and 1989 c 375 s 11 and 1989 c 326 s 1 are each reenacted and amended to read as follows:

(1) The permanent parenting plan shall not require mutual decision-making or designation of a dispute resolution process other than court action if it is found that a parent has engaged in any of the following conduct: (a) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (b) physical, sexual, or a pattern of emotional abuse of a child; or (c) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(2)(a) The parent's residential time with the child shall be limited if it is found that the parent has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm. This subsection shall not apply when (c) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; or (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault that causes grievous bodily harm or the fear of such harm. This subsection (2)(b) shall not apply when (c) of this subsection applies.

(c) If a parent has been convicted as an adult of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been found to be a sexual predator under chapter 71.09 RCW, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult who has been convicted, or with a juvenile who has been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has been found to be a sexual predator under

chapter 71.09 RCW, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting residential time. If the court expressly finds based on the evidence that limitation on the residential time with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting residential time, the court shall restrain the parent requesting residential time from all contact with the child.

((e)) (ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(e) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a) ~~((and))~~, (b), and (d) (i) and (iii) of this subsection, or if the court expressly finds the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) ~~((and))~~, (b), and (d) (i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter 26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c) and (d)(ii) of this subsection apply.

(3) A parent's involvement or conduct may have an adverse effect on the child's best interests, and the court may preclude or limit any provisions of the parenting plan, if any of the following factors exist:

- (a) A parent's neglect or substantial nonperformance of parenting functions;
- (b) A long-term emotional or physical impairment which interferes with the parent's performance of parenting functions as defined in RCW 26.09.004;
- (c) A long-term impairment resulting from drug, alcohol, or other substance abuse that interferes with the performance of parenting functions;
- (d) The absence or substantial impairment of emotional ties between the parent and the child;
- (e) The abusive use of conflict by the parent which creates the danger of serious damage to the child's psychological development;
- (f) A parent has withheld from the other parent access to the child for a protracted period without good cause; or
- (g) Such other factors or conduct as the court expressly finds adverse to the best interests of the child.

(4) In entering a permanent parenting plan, the court shall not draw any presumptions from the provisions of the temporary parenting plan.

(5) In determining whether any of the conduct described in this section has occurred, the court shall apply the civil rules of evidence, proof, and procedure.

**Sec. 2.** RCW 26.10.160 and 1989 c 326 s 2 are each amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights except as provided in subsection (2) of this section.

(2)(a) Visitation with the child shall be limited if it is found that the parent seeking visitation has engaged in any of the following conduct: (i) Willful abandonment that continues for an extended period of time or substantial refusal to perform parenting functions; (ii) physical, sexual, or a pattern of emotional abuse of a child; or (iii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm. This subsection shall not apply when (c) of this subsection applies.

(b) The parent's residential time with the child shall be limited if it is found that the parent resides with a person who has engaged in any of the following conduct: (i) Physical, sexual, or a pattern of emotional abuse of a child; or (ii) a history of acts of domestic violence as defined in RCW 26.50.010(1) or an assault or sexual assault which causes grievous bodily harm or the fear of such harm.

(c) If a parent has been convicted as an adult of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or has been found to be a sexual predator under chapter 71.09 RCW, the court shall restrain the parent from contact with a child that would otherwise be allowed under this chapter. If a parent resides with an adult who has been convicted, or with a juvenile who

has been adjudicated, of a sexual offense under RCW 9A.64.020 or chapter 9.68A or 9A.44 RCW, or who has been found to be a sexual predator under chapter 71.09 RCW, the court shall restrain the parent from contact with the parent's child except contact that occurs outside that person's presence.

(d)(i) The limitations imposed by the court under (a) or (b) of this subsection shall be reasonably calculated to protect the child from the physical, sexual, or emotional abuse or harm that could result if the child has contact with the parent requesting visitation. If the court expressly finds based on the evidence that limitations on visitation with the child will not adequately protect the child from the harm or abuse that could result if the child has contact with the parent requesting visitation, the court shall restrain the person seeking visitation from all contact with the child.

((e)) (ii) The court shall not enter an order under (a) of this subsection allowing a parent to have contact with a child if the parent has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused the child, except upon recommendation by an evaluator or therapist for the child that the child is ready for contact with the parent and will not be harmed by the contact. The court shall not enter an order allowing a parent to have contact with the child if the parent resides with a person who has been found by clear and convincing evidence in a civil action or by a preponderance of the evidence in a dependency action to have sexually abused a child, unless the court finds that the parent accepts that the person engaged in the harmful conduct and the parent is willing to and capable of protecting the child from harm from the person.

(iii) If the court limits residential time under (a) or (b) of this subsection to require supervised contact between the child and the parent, the court shall not approve of a supervisor for contact between a child and a parent who has engaged in physical, sexual, or a pattern of emotional abuse of the child unless the court finds based upon the evidence that the supervisor accepts that the harmful conduct occurred and is willing to and capable of protecting the child from harm. The court shall revoke court approval of the supervisor upon finding, based on the evidence, that the supervisor has failed to protect the child or is no longer willing to or capable of protecting the child.

(e) If the court expressly finds based on the evidence that contact between the parent and the child will not cause physical, sexual, or emotional abuse or harm to the child and that the probability that the parent's or other person's harmful or abusive conduct will recur is so remote that it would not be in the child's best interests to apply the limitations of (a) ~~(and)~~, (b), and (d) (i) and (iii) of this subsection, or if the court expressly finds based on the evidence that the parent's conduct did not have an impact on the child, then the court need not apply the limitations of (a) ~~(and)~~, (b), and (d) (i) and (iii) of this subsection. The weight given to the existence of a protection order issued under chapter

26.50 RCW as to domestic violence is within the discretion of the court. This subsection shall not apply when (c) and (d)(ii) of this subsection apply.

(3) Any person may petition the court for visitation rights at any time including, but not limited to, custody proceedings. The court may order visitation rights for any person when visitation may serve the best interest of the child whether or not there has been any change of circumstances.

(4) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child. Modification of a parent's visitation rights shall be subject to the requirements of subsection (2) of this section.

**Sec. 3.** RCW 26.12.170 and 1991 c 367 s 13 are each amended to read as follows:

To facilitate and promote the purposes of this chapter, family court judges and court commissioners may order or recommend family court services, parenting seminars, drug and alcohol abuse evaluations and monitoring of the parties through public or private treatment services, other treatment services, the aid of physicians, psychiatrists, other specialists, or other services or may recommend the aid of the pastor or director of any religious denomination to which the parties may belong.

If the court has reasonable cause to believe that a child of the parties has suffered abuse or neglect it may file a report with the proper law enforcement agency or the department of social and health services as provided in RCW 26.44.040. Upon receipt of such a report the law enforcement agency or the department of social and health services will conduct an investigation into the cause and extent of the abuse or neglect. The findings of the investigation may be made available to the court if ordered by the court as provided in RCW 42.17.310(3). The findings shall be restricted to the issue of abuse and neglect and shall not be considered custody investigations.

**Sec. 4.** RCW 26.12.220 and 1991 c 367 s 15 are each amended to read as follows:

(1) The legislative authority of any county may authorize family court services as provided in RCW 26.12.230. The legislative authority may impose a fee in excess of that prescribed in RCW 36.18.010 for the issuance of a marriage license. The fee shall not exceed eight dollars.

(2) In addition to any other funds used therefor, the governing body of any county shall use the proceeds from the fee increase authorized by this section to pay the expenses of the family court and the family court services under chapter 26.12 RCW. If there is no family court in the county, the legislative authority may provide such services through other county agencies or may contract with a public or private agency or person to provide such services. Family court services also may be provided jointly with other counties as provided in RCW 26.12.230.



(3) The family court services program may hire professional employees to provide the investigation, evaluation and reporting, and mediation services, or the county may contract for these services, or both. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists.

(4) The family court services program may provide or contract for: (a) Mediation; (b) investigation, evaluation, and reporting to the court; and (c) reconciliation; and may provide a referral mechanism for drug and alcohol testing, monitoring, and treatment; and any other treatment, parenting, or anger management programs the family court professional considers necessary or appropriate.

(5) Services other than family court investigation, evaluation, reconciliation, and mediation services shall be at the expense of the parties involved absent a court order to the contrary. The parties shall bear all or a portion of the cost of parenting seminars and family court investigation, evaluation, reconciliation, and mediation services according to the parties' ability to pay.

(6) The county legislative authority may establish rules of eligibility for the family court services funded under this section. The rules shall not conflict with rules of the court adopted under chapter 26.12 RCW or any other statute.

(7) The legislative authority may establish fees for family court investigation, evaluation, reconciliation, and mediation services under this chapter according to the parties' ability to pay for the services. Fees collected under this section shall be collected and deposited in the same manner as other county funds are collected and deposited, and shall be maintained in a separate account to be used as provided in this section.

NEW SECTION. Sec. 5. A new section is added to chapter 26.12 RCW to read as follows:

Any court rules adopted for the implementation of parenting seminars shall include the following provisions:

(1) In no case shall opposing parties be required to attend seminars together;  
(2) Upon a showing of domestic violence or abuse which would not require mutual decision making pursuant to RCW 26.09.191, or that a parent's attendance at the seminar is not in the children's best interests, the court shall either:

(a) Waive the requirement of completion of the seminar; or  
(b) Provide an alternative, voluntary parenting seminar for battered spouses;  
and

(3) The court may waive the seminar for good cause.

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

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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**CHAPTER 268**

[Engrossed Senate Bill 5692]

**CONSERVATION INVESTMENT BY PUBLIC UTILITIES**

AN ACT Relating to financing conservation investment by electrical, gas, and water companies; and adding new sections to chapter 80.28 RCW.

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

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

(1) "Bondable conservation investment" means all expenditures made by electrical, gas, or water companies with respect to energy or water conservation measures and services intended to improve the efficiency of electricity, gas, or water end use, including related carrying costs if:

(a) The conservation measures and services do not produce assets that would be bondable utility property under the general utility mortgage of the electrical, gas, or water company;

(b) The commission has determined that the expenditures were incurred in conformance with the terms and conditions of a conservation service tariff in effect with the commission at the time the costs were incurred, and at the time of such determination the commission finds that the company has proven that the costs were prudent, that the terms and conditions of the financing are reasonable, and that financing under this chapter is more favorable to the customer than other reasonably available alternatives;

(c) The commission has approved inclusion of the expenditures in rate base and has not ordered that they be currently expensed; and

(d) The commission has not required that the measures demonstrate that energy savings have persisted at a certain level for a certain period before approving the cost of these investments as bondable conservation investment.

(2) "Conservation bonds" means bonds, notes, certificates of beneficial interests in trusts, or other evidences of indebtedness or ownership that:

(a) The commission determines at or before the time of issuance are issued to finance or refinance bondable conservation investment by an electrical, gas or water company; and

(b) Rely partly or wholly for repayment on conservation investment assets and revenues arising with respect thereto.

(3) "Conservation investment assets" means the statutory right of an electrical, gas, or water company:

(a) To have included in rate base all of its bondable conservation investment and related carrying costs; and

(b) To receive through rates revenues sufficient to recover the bondable conservation investment and the costs of equity and debt capital associated with it, including, without limitation, the payment of principal, premium, if any, and interest on conservation bonds.

(4) "Finance subsidiary" means any corporation, company, association, joint stock association, or trust that is beneficially owned, directly or indirectly, by an electrical, gas, or water company, or in the case of a trust issuing conservation bonds consisting of beneficial interests, for which an electrical, gas, or water company or a subsidiary thereof is the grantor, or an unaffiliated entity formed for the purpose of financing or refinancing approved conservation investment, and that acquires conservation investment assets directly or indirectly from such company in a transaction approved by the commission.

NEW SECTION. Sec. 2. (1) An electrical, gas, or water company may file a conservation service tariff with the commission. The tariff shall provide:

(a) The terms and conditions upon which the company will offer the conservation measures and services specified in the tariff;

(b) The period of time during which the conservation measures and services will be offered; and

(c) The maximum amount of expenditures to be made during a specified time period by the company on conservation measures and services specified in the tariff.

(2) The commission has the same authority with respect to a proposed conservation service tariff as it has with regard to any other schedule or classification the effect of which is to change any rate or charge, including, without limitation, the power granted by RCW 80.04.130 to conduct a hearing concerning a proposed conservation service tariff and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of the tariff for a period not exceeding ten months from the time the tariff would otherwise go into effect.

(3) An electrical, gas, or water company may from time to time apply to the commission for a determination that specific expenditures may under its tariff constitute bondable conservation investment. A company may request this determination by the commission in separate proceedings for this purpose or in connection with a general rate case. The commission may designate the expenditures as bondable conservation investment as defined in section 1(1) of this act if it finds that such designation is in the public interest.

(4) The commission shall include in rate base all bondable conservation investment. The commission shall approve rates for service by electrical, gas, and water companies at levels sufficient to recover all of the expenditures of the bondable conservation investment included in rate base and the costs of equity and debt capital associated therewith, including, without limitation, the payment of principal, premium, if any, and interest on conservation bonds. The rates so determined may be included in general rate schedules or may be expressed in one or more separate rate schedules. The commission shall not revalue bondable

conservation investment for rate-making purposes, to determine that revenues required to recover bondable conservation investment and associated equity and debt capital costs are unjust, unreasonable, or in any way impair or reduce the value of conservation investment assets or that would impair the timing or the amount of revenues arising with respect to conservation investment assets that have been pledged to secure conservation bonds.

(5) Nothing in this chapter precludes the commission from adopting or continuing other conservation policies and programs intended to provide incentives for and to encourage utility investment in improving the efficiency of energy or water end use. However, the policies or programs shall not impair conservation investment assets. This chapter is not intended to be an exclusive or mandatory approach to conservation programs for electrical, gas, and water companies, and no such company is obligated to file conservation service tariffs under this chapter, to apply to the commission for a determination that conservation costs constitute bondable conservation investment within the meaning of this chapter, or to issue conservation bonds.

(6)(a) If a customer of an electrical, gas, or water company for whose benefit the company made expenditures for conservation measures or services ceases to be a customer of such company for one or more of the following reasons, the commission may require that the portion of such conservation expenditures that had been included in rate base but not theretofore recovered in the rates of such company be removed from the rate base of the company:

(i) The customer ceases to be a customer of the supplier of energy or water, and the customer repays to the company the portion of the conservation expenditures made for the benefit of such customer that has not theretofore been recovered in rates of the company; or

(ii) The company sells its property used to serve such customer and the customer ceases to be a customer of the company as a result of such action.

(b) An electrical, gas, or water company may include in a contract for a conservation measure or service, and the commission may by rule or order require to be included in such contracts, a provision requiring that, if the customer ceases to be a customer of that supplier of energy or water, the customer shall repay to the company the portion of the conservation expenditures made for the benefit of such customer that has not theretofore been recovered in rates of the company.

**NEW SECTION.** Sec. 3. (1) Electrical, gas, and water companies, or finance subsidiaries, may issue conservation bonds upon approval by the commission.

(2) Electrical, gas, and water companies, or finance subsidiaries may pledge conservation investment assets as collateral for conservation bonds by obtaining an order of the commission approving an issue of conservation bonds and providing for a security interest in conservation investment assets. A security interest in conservation investment assets is created and perfected only upon entry of an order by the commission approving a contract governing the granting

of the security interest and the filing with the department of licensing of a UCC-1 financing statement, showing such pledgor as "debtor" and identifying such conservation investment assets and the bondable conservation investment associated therewith. The security interest is enforceable against the debtor and all third parties, subject to the rights of any third parties holding security interests in the conservation investment assets perfected in the manner described in this section, if value has been given by the purchasers of conservation bonds. An approved security interest in conservation investment assets is a continuously perfected security interest in all revenues and proceeds arising with respect to the associated bondable conservation investment, whether or not such revenues have accrued. Upon such approval, the priority of such security interest shall be as set forth in the contract governing the conservation bonds. Conservation investment assets constitute property for the purposes of contracts securing conservation bonds whether or not the related revenues have accrued.

(3) The relative priority of a security interest created under this section is not defeated or adversely affected by the commingling of revenues arising with respect to conservation investment assets with other funds of the debtor. The holders of conservation bonds shall have a perfected security interest in all cash and deposit accounts of the debtor in which revenues arising with respect to conservation investment assets pledged to such holders have been commingled with other funds, but such perfected security interest is limited to an amount not greater than the amount of such revenues received by the debtor within twelve months before (a) any default under the conservation bonds held by the holders or (b) the institution of insolvency proceedings by or against the debtor, less payments from such revenues to the holders during such twelve-month period. If an event of default occurs under an approved contract governing conservation bonds, the holders of conservation bonds or their authorized representatives, as secured parties, may foreclose or otherwise enforce the security interest in the conservation investment assets securing the conservation bonds, subject to the rights of any third parties holding prior security interests in the conservation investment assets perfected in the manner provided in this section. Upon application by the holders of their representatives, without limiting their other remedies, the commission shall order the sequestration and payment to the holders or their representatives of revenues arising with respect to the conservation investment assets pledged to such holders. Any such order shall remain in full force and effect notwithstanding any bankruptcy, reorganization, or other insolvency proceedings with respect to the debtor. Any surplus in excess of amounts necessary to pay principal, premium, if any, interest, and expenses arising under the contract governing the conservation bonds shall be remitted to the debtor electrical, gas, or water company or the debtor finance subsidiary.

(4) The granting, perfection, and enforcement of security interests in conservation investment assets to secure conservation bonds is governed by this chapter rather than by chapter 62A.9 RCW

(5) A transfer of conservation investment assets by an electrical, gas, or water company to a finance subsidiary, which such parties have in the governing documentation expressly stated to be a sale or other absolute transfer, in a transaction approved in an order issued by the commission and in connection with the issuance by such finance subsidiary of conservation bonds, shall be treated as a true sale, and not as a pledge or other financing, of such conservation investment assets. According the holders of conservation bonds a preferred right to revenues of the electrical, gas, or water company, or the provision by such company of other credit enhancement with respect to conservation bonds, does not impair or negate the characterization of any such transfer as a true sale.

(6) Any successor to an electrical, gas, or water company pursuant to any bankruptcy, reorganization, or other insolvency proceeding shall perform and satisfy all obligations of the company under an approved contract governing conservation bonds, in the same manner and to the same extent as such company before any such proceeding, including, without limitation, collecting and paying to the bondholders or their representatives revenues arising with respect to the conservation investment assets pledged to secure the conservation bonds.

**NEW SECTION. Sec. 4.** (1) Costs incurred before the effective date of this section by electrical, gas, or water companies with respect to energy or water conservation measures and services intended to improve the efficiency of energy or water end use shall constitute bondable conservation investment for purposes of sections 1 through 4 of this act, if:

(a) The commission has previously issued a rate order authorizing the inclusion of such costs in rate base; and

(b) The commission authorizes the issuance of conservation bonds secured by conservation investment assets associated with such costs.

(2) If costs incurred before the effective date of this section by electrical, gas, or water companies with respect to energy or water conservation measures intended to improve the efficiency of energy or water end use have not previously been considered by the commission for inclusion in rate base, an electrical, gas, or water company may apply to the commission for approval of such costs. If the commission finds that the expenditures are a bondable conservation investment, the commission shall by order designate such expenditures as bondable conservation investment, which shall be subject to sections 1 through 4 of this act.

**NEW SECTION. Sec. 5.** Sections 1 through 4 of this act are each added to chapter 80.28 RCW.

Passed the Senate February 11, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 269

[Substitute Senate Bill 5819]

## VOTE BY MAIL—TWO YEAR TRIAL PERIOD

AN ACT Relating to voting by mail; amending RCW 29.36.120 and 29.36.160; and prescribing penalties.

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

**Sec. 1.** RCW 29.36.120 and 1993 c 417 s 1 are each amended to read as follows:

(1) At any primary or election, general or special, the county auditor may, in any precinct having fewer than two hundred registered voters at the time of closing of voter registration as provided in RCW 29.07.160, conduct the voting in that precinct by mail ballot. For any precinct having fewer than two hundred registered voters where voting at a primary or a general election is conducted by mail ballot, the county auditor shall, not less than fifteen days prior to the date of that primary or general election, mail or deliver to each registered voter within that precinct a notice that the voting in that precinct will be by mail ballot, an application form for a mail ballot, and a postage prepaid envelope, preaddressed to the issuing officer. A mail ballot shall be issued to each voter who returns a properly executed application to the county auditor no later than the day of that primary or general election. Such application is valid for all subsequent mail ballot elections in that precinct so long as the voter remains qualified to vote.

At any nonpartisan special election not being held in conjunction with a state primary or general election, the county, city, town, or district requesting the election pursuant to RCW 29.13.010 or 29.13.020 may also request that the election be conducted by mail ballot. The county auditor may honor the request or may determine that the election is not to be conducted by mail ballot. The decision of the county auditor in this regard is final.

In no instance shall any special election be conducted by mail ballot in any precinct with two hundred or more registered voters if candidates for partisan office are to be voted upon.

For all special elections not being held in conjunction with a state primary or state general election where voting is conducted by mail ballot, the county auditor shall, not less than fifteen days prior to the date of such election, mail or deliver to each registered voter a mail ballot and an envelope, preaddressed to the issuing officer.

(2) For a two-year period beginning on the effective date of this act and ending two years after the effective date of this act, the county auditor may conduct the voting in any precinct by mail for any primary or election, partisan or nonpartisan, using the procedures set forth in RCW 29.36.120 through 29.36.139.

**Sec. 2.** RCW 29.36.160 and 1991 c 81 s 34 are each amended to read as follows:

A person who willfully violates any provision of this chapter regarding the assertion or declaration of qualifications to receive or cast an absentee ballot, unlawfully casts a vote by absentee ballot, or willfully violates any provision regarding the conduct of mail ballot (~~(special)~~) primaries or elections under RCW 29.36.120 through 29.36.139 is guilty of a class C felony punishable under RCW 9A.20.021. Except as provided in chapter 29.85 RCW a person who willfully violates any other provision of this chapter is guilty of a misdemeanor.

Passed the Senate February 8, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 270

[Third Substitute Senate Bill 5918]

### RIDE-SHARING VEHICLES—EXCISE TAX CREDITS

AN ACT Relating to ride-sharing vehicles; adding new sections to chapter 82.04 RCW; adding new sections to chapter 82.16 RCW; creating a new section; prescribing penalties; and providing an expiration date.

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

**NEW SECTION.** **Sec. 1.** Transportation demand strategies that reduce the number of vehicles on Washington state's highways, roads, and streets, and provide attractive and effective alternatives to single-occupancy travel can improve ambient air quality, conserve fossil fuels, and forestall the need for capital improvements to the state's transportation system. The legislature has required many public and private employers in the state's largest counties to implement transportation demand management programs to reduce the number of single-occupant vehicle travelers during the morning and evening rush hours. The legislature finds that additional transportation demand management strategies are necessary to mitigate the adverse social, environmental, and economic effects of automobile dependency and traffic congestion. While expensive capital improvements, including dedicated busways and commuter rail systems, may be necessary to improve the region's mobility, they are only part of the solution. All public and private entities that attract single-occupant vehicle drivers must develop imaginative and cost-effective ways to encourage walking, bicycling, carpooling, vanpooling, bus riding, and telecommuting. It is the intent of the legislature to revise those portions of state law that inhibit the application of imaginative solutions to the state's transportation mobility problems and to encourage many more public and private employers to adopt effective transportation demand management strategies.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) Major employers in the state's eight largest counties affected by the commute trip reduction programs required under RCW 70.94.521 through



70.94.551 who are taxable under this chapter and provide financial incentives to their employees for ride sharing before June 30, 1996, shall be allowed a credit for amounts paid to employees for ride sharing in vehicles carrying four or more persons, not to exceed sixty dollars per employee per year. The credit shall be equal to the amount paid to each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. The credit may not exceed the amount of tax that would otherwise be due under this chapter.

(2) Application for tax credit under this chapter may only be made by major employers as defined by RCW 70.94.524 and in the form and manner prescribed in rules adopted by the department and in consultation with the commute trip reduction task force.

(3) The credit shall be taken against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to employees for ride sharing.

(4) The director shall on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(5) On the first of April, July, October, and January of each year, the state treasurer based upon information provided by the department shall deposit a sum equal to the dollar amount of the credit provided under subsection (1) of this section from the air pollution control account to the general fund.

(6) The commute trip reduction task force shall determine the effectiveness of this tax credit as part of its ongoing evaluation of the commute trip reduction law and report no later than December 1, 1996, to the legislative transportation committee.

(7) Any person who knowingly makes a false statement of a material fact in the application for a credit under subsection (1) of this section is guilty of a gross misdemeanor.

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

(1) The department shall keep a running total of all credits granted under this chapter during each calendar year, and shall disallow any credits that would cause the tabulation for any calendar year to exceed two million dollars.

(2) No employer shall be eligible for tax credits in excess of two hundred thousand dollars in any calendar year.

(3) No employer shall be eligible for tax credits in excess of the amount of tax that would otherwise be due under this chapter.

(4) No portion of an application for credit disallowed under this section may be carried back or carried forward.

**NEW SECTION.** Sec. 4. A new section is added to chapter 82.16 RCW to read as follows:

(1) Major employers in the state's eight largest counties affected by the commute trip reduction programs required under RCW 70.94.521 through 70.94.551 who are taxable under this chapter and provide financial incentives to their employees for ride sharing before June 30, 1996, shall be allowed a credit for amounts paid to employees for ride sharing in vehicles carrying four or more persons, not to exceed sixty dollars per employee per year. The credit shall be equal to the amount paid to each employee multiplied by fifty percent, but may not exceed sixty dollars per employee per year. The credit may not exceed the amount of tax that would otherwise be due under this chapter.

(2) Application for tax credit under this chapter may only be made by major employers as defined by RCW 70.94.524 and in the form and manner prescribed in rules adopted by the department and in consultation with the commute trip reduction task force.

(3) The credit shall be taken against taxes due for the same calendar year in which the amounts for which credit is claimed were paid to employees for ride sharing.

(4) The director shall on the 25th of February, May, August, and November of each year advise the state treasurer of the amount of credit taken during the preceding calendar quarter ending on the last day of December, March, June, and September, respectively.

(5) On the first of April, July, October, and January of each year, the state treasurer based upon information provided by the department shall deposit a sum equal to the dollar amount of the credit provided under subsection (1) of this section from the air pollution control account to the general fund.

(6) The commute trip reduction task force shall determine the effectiveness of this tax credit as part of its ongoing evaluation of the commute trip reduction law and report no later than December 1, 1996, to the legislative transportation committee.

(7) Any person who knowingly makes a false statement of a material fact in the application for a credit under subsection (1) of this section is guilty of a gross misdemeanor.

**NEW SECTION.** Sec. 5. A new section is added to chapter 82.16 RCW to read as follows:

(1) The department shall keep a running total of all credits granted under this chapter during each calendar year, and shall disallow any credits that would cause the tabulation for any calendar year to exceed two million dollars.

(2) No employer shall be eligible for tax credits in excess of two hundred thousand dollars in any calendar year.

(3) No employer shall be eligible for tax credits in excess of the amount of tax that would otherwise be due under this chapter.

(4) No portion of an application for credit disallowed under this section may be carried back or carried forward.

**NEW SECTION.** Sec. 6. This act shall expire December 31, 1996.

NEW SECTION. Sec. 6. This act shall expire December 31, 1996.

Passed the Senate March 8, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 271**

[Substitute Senate Bill 6007]

**CRIMES—CLARIFICATION AND TECHNICAL CORRECTIONS**

AN ACT Relating to crimes; amending RCW 9A.28.020, 9A.72.090, 9A.72.100, 9A.72.110, 9A.72.120, 9A.44.010, 9A.44.083, 9A.44.086, 9A.44.089, 9A.44.093, 9A.44.096, 43.43.754, 43.43.680, 9.94A.140, 9.94A.142, 9A.46.110, 13.40.020, and 9.94A.220; reenacting and amending RCW 9A.46.060; adding a new section to chapter 72.65 RCW; creating new sections; repealing RCW 10.19.130; prescribing penalties; and providing an effective date.

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

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**PURPOSE**

NEW SECTION. Sec. 1. The purpose of this act is to make certain technical corrections and correct oversights discovered only after unanticipated circumstances have arisen. These changes are necessary to give full expression to the original intent of the legislature.

**PART I - SENTENCING FOR ATTEMPTED MURDER**

**Sec. 101.** RCW 9A.28.020 and 1981 c 203 s 3 are each amended to read as follows:

(1) A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

(3) An attempt to commit a crime is a:

(a) Class A felony when the crime attempted is murder in the first degree, murder in the second degree, or arson in the first degree;

(b) Class B felony when the crime attempted is a class A felony other than murder in the first degree, murder in the second degree, or arson in the first degree;

(c) Class C felony when the crime attempted is a class B felony;

(d) Gross misdemeanor when the crime attempted is a class C felony;

(e) Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor.

**PART II - WITNESS INTIMIDATION/TAMPERING**

NEW SECTION. Sec. 201. The legislature finds that witness intimidation and witness tampering serve to thwart both the effective prosecution of criminal conduct in the state of Washington and resolution of child dependencies.

Further, the legislature finds that intimidating persons who have information pertaining to a future proceeding serves to prevent both the bringing of a charge and prosecution of such future proceeding. The legislature finds that the period before a crime or child abuse or neglect is reported is when a victim is most vulnerable to influence, both from the defendant or from people acting on behalf of the defendant and a time when the defendant is most able to threaten, bribe, and/or persuade potential witnesses to leave the jurisdiction or withhold information from law enforcement agencies.

The legislature moreover finds that a criminal defendant's admonishment or demand to a witness to "drop the charges" is intimidating to witnesses or other persons with information relevant to a criminal proceeding.

The legislature finds, therefore, that tampering with and/or intimidating witnesses or other persons with information relevant to a present or future

criminal or child dependency proceeding are grave offenses which adversely impact the state's ability to promote public safety and prosecute criminal behavior.

**Sec. 202.** RCW 9A.72.090 and 1982 1st ex.s. c 47 s 16 are each amended to read as follows:

(1) A person is guilty of bribing a witness if he or she offers, confers, or agrees to confer any benefit upon a witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding or upon a person whom he or she has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child, with intent to:

(a) Influence the testimony of that person; or

(b) Induce that person to avoid legal process summoning him or her to testify; or

(c) Induce that person to absent himself or herself from an official proceeding to which he or she has been legally summoned; or

(d) Induce that person to refrain from reporting information relevant to a criminal investigation or the abuse or neglect of a minor child.

(2) Bribing a witness is a class B felony.

**Sec. 203.** RCW 9A.72.100 and 1982 1st ex.s. c 47 s 17 are each amended to read as follows:

(1) A witness or a person who has reason to believe he or she is about to be called as a witness in any official proceeding or that he or she may have information relevant to a criminal investigation or the abuse or neglect of a minor child is guilty of bribe receiving by a witness if he or she requests, accepts, or agrees to accept any benefit pursuant to an agreement or understanding that:

(a) ~~((His))~~ The person's testimony will thereby be influenced; or

(b) ~~((He))~~ The person will attempt to avoid legal process summoning him or her to testify; or

(c) ~~((He))~~ The person will attempt to absent himself or herself from an official proceeding to which he or she has been legally summoned; or

(d) The person will not report information he or she has relevant to a criminal investigation or the abuse or neglect of a minor child.

(2) Bribe receiving by a witness is a class B felony.

**Sec. 204.** RCW 9A.72.110 and 1985 c 327 s 2 are each amended to read as follows:

(1) A person is guilty of intimidating a witness if a person directs a threat to a former witness because of the witness' testimony in any official proceeding, or if, by use of a threat directed to a current witness or a person he or she has reason to believe is about to be called as a witness in any official proceeding or to a person whom he or she has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child, he or she attempts to:

- (a) Influence the testimony of that person; or
- (b) Induce that person to elude legal process summoning him or her to testify; or
- (c) Induce that person to absent himself or herself from such proceedings;  
or
- (d) Induce that person not to report the information relevant to a criminal investigation or the abuse or neglect of a minor child, not to prosecute the crime or the abuse or neglect of a minor child, not to have the crime or the abuse or neglect of a minor child prosecuted, or not to give truthful or complete information relevant to a criminal investigation or the abuse or neglect of a minor child.

(2) "Threat" as used in this section means:

- (a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or
- (b) Threats as defined in RCW 9A.04.110(25).
- (3) Intimidating a witness is a class B felony.

**Sec. 205.** RCW 9A.72.120 and 1982 1st ex.s. c 47 s 19 are each amended to read as follows:

(1) A person is guilty of tampering with a witness if he or she attempts to induce a witness or person he or she has reason to believe is about to be called as a witness in any official proceeding or a person whom he or she has reason to believe may have information relevant to a criminal investigation or the abuse or neglect of a minor child to:

- (a) Testify falsely or, without right or privilege to do so, to withhold any testimony; or
- (b) Absent himself or herself from such proceedings; or
- (c) Withhold from a law enforcement agency information which he or she has relevant to a criminal investigation or the abuse or neglect of a minor child to the agency.

(2) Tampering with a witness is a class C felony.

### PART III - CHILD MOLESTATION

**NEW SECTION. Sec. 301.** The legislature hereby reaffirms its desire to protect the children of Washington from sexual abuse and further reaffirms its condemnation of child sexual abuse that takes the form of causing one child to engage in sexual contact with another child for the sexual gratification of the one causing such activities to take place.

**Sec. 302.** RCW 9A.44.010 and 1993 c 477 s 1 are each amended to read as follows:

As used in this chapter:

- (1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and
- (b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of

the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(3) "Married" means one who is legally married to another, but does not include a person who is living separate and apart from his or her spouse and who has filed in an appropriate court for legal separation or for dissolution of his or her marriage.

(4) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause.

(5) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act.

(6) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnapped.

(7) "Consent" means that at the time of the act of sexual intercourse or sexual contact there are actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(8) "Significant relationship" means a situation in which the perpetrator is:

(a) A person who undertakes the responsibility, professionally or voluntarily, to provide education, health, welfare, or organized recreational activities principally for minors; or

(b) A person who in the course of his or her employment supervises minors.

(9) "Abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor.

(10) "Developmentally disabled," for purposes of RCW 9A.44.050(1)(c) and 9A.44.100(1)(c), means a person with a developmental disability as defined in RCW 71A.10.020.

(11) "Person with supervisory authority," for purposes of RCW 9A.44.050(1)(c) or (e) and 9A.44.100(1)(c) or (e), means any proprietor or employee of any public or private care or treatment facility who directly supervises developmentally disabled, mentally disordered, or chemically dependent persons at the facility.

(12) "Mentally disordered person" for the purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person with a "mental disorder" as defined in RCW 71.05.020(2).

(13) "Chemically dependent person" for purposes of RCW 9A.44.050(1)(e) and 9A.44.100(1)(e) means a person who is "chemically dependent" as defined in RCW 70.96A.020(4).

(14) "Health care provider" for purposes of RCW 9A.44.050 and 9A.44.100 means a person who is, holds himself or herself out to be, or provides services as if he or she were: (a) A member of a health care profession under chapter 18.130 RCW; or (b) registered or certified under chapter 18.19 RCW, regardless of whether the health care provider is licensed, certified, or registered by the state.

(15) "Treatment" for purposes of RCW 9A.44.050 and 9A.44.100 means the active delivery of professional services by a health care provider which the health care provider holds himself or herself out to be qualified to provide.

**Sec. 303.** RCW 9A.44.083 and 1990 c 3 s 902 are each amended to read as follows:

(1) A person is guilty of child molestation in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class A felony.

**Sec. 304.** RCW 9A.44.086 and 1988 c 145 s 6 are each amended to read as follows:

(1) A person is guilty of child molestation in the second degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least twelve years old but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the second degree is a class B felony.

**Sec. 305.** RCW 9A.44.089 and 1988 c 145 s 7 are each amended to read as follows:

(1) A person is guilty of child molestation in the third degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another who is at least fourteen years old but less than sixteen years old and not married to the perpetrator and the perpetrator is at least forty-eight months older than the victim.

(2) Child molestation in the third degree is a class C felony.

**Sec. 306.** RCW 9A.44.093 and 1988 c 145 s 8 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the first degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual intercourse with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant



relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual intercourse with the victim.

(2) Sexual misconduct with a minor in the first degree is a class C felony.

**Sec. 307.** RCW 9A.44.096 and 1988 c 145 s 9 are each amended to read as follows:

(1) A person is guilty of sexual misconduct with a minor in the second degree when the person has, or knowingly causes another person under the age of eighteen to have, sexual contact with another person who is at least sixteen years old but less than eighteen years old and not married to the perpetrator, if the perpetrator is at least sixty months older than the victim, is in a significant relationship to the victim, and abuses a supervisory position within that relationship in order to engage in or cause another person under the age of eighteen to engage in sexual contact with the victim.

(2) Sexual misconduct with a minor in the second degree is a gross misdemeanor.

#### PART IV - DNA IDENTIFICATION

**NEW SECTION. Sec. 401.** The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis.

**Sec. 402.** RCW 43.43.754 and 1990 c 230 s 3 are each amended to read as follows:

~~((After July 1, 1990,))~~ Every adult or juvenile individual convicted ~~((in a Washington superior court))~~ of a felony or adjudicated guilty of an equivalent juvenile offense defined as a sex offense under RCW 9.94A.030~~((29(a)))~~ (31)(a) or a violent offense as defined in RCW 9.94A.030~~((32))~~ shall have a blood sample drawn for purposes of DNA identification analysis. For persons convicted of such offenses ~~((after July 1, 1990,))~~ or adjudicated guilty of an equivalent juvenile offense who are serving a term of confinement in a county jail or detention facility, the county shall be responsible for obtaining blood samples prior to release from the county jail or detention facility. For persons convicted of such offenses ~~((after July 1, 1990))~~ or adjudicated guilty of an equivalent juvenile offense, who are serving a term of confinement in a department of corrections facility or a division of juvenile rehabilitation facility, the ~~((department))~~ facility holding the person shall be responsible for obtaining blood samples prior to release from such facility. Any blood sample taken pursuant to RCW 43.43.752 through 43.43.758 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.

This section applies to all adults who are convicted after July 1, 1990. This section applies to all juveniles who are adjudicated guilty after July 1, 1994.

**PART V - TOXICOLOGIST AS WITNESS**

**Sec. 501.** RCW 43.43.680 and 1992 c 129 s 1 are each amended to read as follows:

(1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance.

**PART VI - RESTITUTION**

**Sec. 601.** RCW 9.94A.140 and 1989 c 252 s 5 are each amended to read as follows:

(1) If restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances. Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury.

Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years (~~subsequent to the imposition of sentence~~) following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution may be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property. In addition, restitution may be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim or defendant.

**Sec. 602.** RCW 9.94A.142 and 1989 c 252 s 6 are each amended to read as follows:

(1) When restitution is ordered, the court shall determine the amount of restitution due at the sentencing hearing or within sixty days. The court shall then set a minimum monthly payment that the offender is required to make towards the restitution that is ordered. The court should take into consideration the total amount of the restitution owed, the offender's present, past, and future ability to pay, as well as any assets that the offender may have. During the period of supervision, the community corrections officer may examine the offender to determine if there has been a change in circumstances that warrants an amendment of the monthly payment schedule. The community corrections officer may recommend a change to the schedule of payment and shall inform the court of the recommended change and the reasons for the change. The sentencing court may then reset the monthly minimum payments based on the report from the community corrections officer of the change in circumstances.

Restitution ordered by a court pursuant to a criminal conviction shall be based on easily ascertainable damages for injury to or loss of property, actual expenses incurred for treatment for injury to persons, and lost wages resulting from injury. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses, but may include the costs of counseling reasonably related to the offense. The amount of restitution shall not exceed double the amount of the offender's gain or the victim's loss from the commission of the crime. For the purposes of this section, the offender shall remain under the court's jurisdiction for a maximum term of ten years (~~subsequent to the imposition of sentence~~) following the offender's release from total confinement or ten years subsequent to the entry of the judgment and sentence, whichever period is longer. The portion of the sentence concerning restitution may be modified as to amount, terms and conditions during the ten-year period, regardless of the expiration of the offender's term of community supervision and regardless of the statutory maximum for the crime. The offender's compliance with the restitution shall be supervised by the department.

(2) Restitution shall be ordered whenever the offender is convicted of an offense which results in injury to any person or damage to or loss of property unless extraordinary circumstances exist which make restitution inappropriate in the court's judgment and the court sets forth such circumstances in the record. In addition, restitution shall be ordered to pay for an injury, loss, or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which are not prosecuted pursuant to a plea agreement.

(3) In addition to any sentence that may be imposed, a defendant who has been found guilty of an offense involving fraud or other deceptive practice or an organization which has been found guilty of any such offense may be ordered by the sentencing court to give notice of the conviction to the class of persons or to the sector of the public affected by the conviction or financially interested in the subject matter of the offense by mail, by advertising in designated areas or through designated media, or by other appropriate means.

(4) This section does not limit civil remedies or defenses available to the victim, survivors of the victim, or defendant.

(5) This section shall apply to offenses committed after July 1, 1985.

#### **PART VII - BAIL JUMPING**

NEW SECTION. Sec. 701. RCW 10.19.130 and 1975 1st ex.s. c 2 s 1 are each repealed.

## PART VIII - STALKING

**Sec. 801.** RCW 9A.46.110 and 1992 c 186 s 1 are each amended to read as follows:

(1) A person commits the crime of stalking if, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

(a) He or she intentionally and repeatedly harasses or repeatedly follows another person ~~((to that person's home, school, place of employment, business, or any other location, or follows the person while the person is in transit between locations))~~; and

(b) The person being harassed or followed is ~~((intimidated, harassed, or))~~ placed in fear that the stalker intends to injure the person, another person, or property of the person ~~((being followed))~~ or of another person. The feeling of fear ~~((intimidation, or harassment))~~ must be one that a reasonable person in the same situation would experience under all the circumstances; and

(c) The stalker either:

(i) Intends to frighten, intimidate, or harass the person ~~((being followed))~~;

or

(ii) Knows or reasonably should know that the person ~~((being followed))~~ is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(2)(a) It is not a defense to the crime of stalking under subsection (1)(c)(i) of this section that the stalker was not given actual notice that the person ~~((being followed))~~ did not want the stalker to contact or follow the person; and

(b) It is not a defense to the crime of stalking under subsection (1)(c)(ii) of this section that the stalker did not intend to frighten, intimidate, or harass the person ~~((being followed))~~.

(3) It shall be a defense to the crime of stalking that the defendant is a licensed private detective acting within the capacity of his or her license as provided by chapter 18.165 RCW.

(4) Attempts to contact or follow the person after being given actual notice that the person does not want to be contacted or followed constitutes prima facie evidence that the stalker intends to intimidate or harass the person.

(5) A person who stalks another person is guilty of a gross misdemeanor except that the person is guilty of a class C felony if any of the following applies: (a) The stalker has previously been convicted in this state or any other state of any crime of harassment, as defined in RCW 9A.46.060, of the same victim or members of the victim's family or household or any person specifically named in a ~~((no contact order or no harassment))~~ protective order; (b) the ~~((person))~~ stalking violates ~~((a court))~~ any protective order ~~((issued pursuant to RCW 9A.46.040))~~ protecting the person being stalked; ~~((or))~~ (c) the stalker has previously been convicted of a gross misdemeanor or felony stalking offense under this section for stalking another person; (d) the stalker was armed with a deadly weapon, as defined in RCW 9.94A.125, while stalking the person; (e) the stalker's victim is or was a law enforcement officer, judge, juror, attorney, victim

advocate, legislator, or community correction's officer, and the stalker stalked the victim to retaliate against the victim for an act the victim performed during the course of official duties or to influence the victim's performance of official duties; or (f) the stalker's victim is a current, former, or prospective witness in an adjudicative proceeding, and the stalker stalked the victim to retaliate against the victim as a result of the victim's testimony or potential testimony.

(6) As used in this section:

(a) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that the alleged stalker follows the person while in transit from one location to another.

(b) "Harasses" means unlawful harassment as defined in RCW 10.14.020.

(c) "Protective order" means any temporary or permanent court order prohibiting or limiting violence against, harassment of, contact or communication with, or physical proximity to another person.

(d) "Repeatedly" means on two or more separate occasions.

**Sec. 802.** RCW 9A.46.060 and 1992 c 186 s 4 and 1992 c 145 s 12 are each reenacted and amended to read as follows:

As used in this chapter, "harassment" may include but is not limited to any of the following crimes:

- (1) Harassment (RCW 9A.46.020);
- (2) Malicious harassment (RCW 9A.36.080);
- (3) Telephone harassment (RCW 9.61.230);
- (4) Assault in the first degree (RCW 9A.36.011);
- (5) Assault of a child in the first degree (RCW 9A.36.120);
- (6) Assault in the second degree (RCW 9A.36.021);
- (7) Assault of a child in the second degree (RCW 9A.36.130);
- (8) Assault in the fourth degree (RCW 9A.36.041);
- (9) Reckless endangerment in the second degree (RCW 9A.36.050);
- (10) Extortion in the first degree (RCW 9A.56.120);
- (11) Extortion in the second degree (RCW 9A.56.130);
- (12) Coercion (RCW 9A.36.070);
- (13) Burglary in the first degree (RCW 9A.52.020);
- (14) Burglary in the second degree (RCW 9A.52.030);
- (15) Criminal trespass in the first degree (RCW 9A.52.070);
- (16) Criminal trespass in the second degree (RCW 9A.52.080);
- (17) Malicious mischief in the first degree (RCW 9A.48.070);
- (18) Malicious mischief in the second degree (RCW 9A.48.080);
- (19) Malicious mischief in the third degree (RCW 9A.48.090);
- (20) Kidnapping in the first degree (RCW 9A.40.020);
- (21) Kidnapping in the second degree (RCW 9A.40.030);

- (22) Unlawful imprisonment (RCW 9A.40.040);
- (23) Rape in the first degree (RCW 9A.44.040);
- (24) Rape in the second degree (RCW 9A.44.050);
- (25) Rape in the third degree (RCW 9A.44.060);
- (26) Indecent liberties (RCW 9A.44.100);
- (27) Rape of a child in the first degree (RCW 9A.44.073);
- (28) Rape of a child in the second degree (RCW 9A.44.076);
- (29) Rape of a child in the third degree (RCW 9A.44.079);
- (30) Child molestation in the first degree (RCW 9A.44.083);
- (31) Child molestation in the second degree (RCW 9A.44.086);
- (32) Child molestation in the third degree (RCW 9A.44.089); ~~((and))~~
- (33) Stalking (RCW 9A.46.110); and
- (34) Violation of a temporary or permanent protective order issued pursuant to chapter 9A.46, 10.14, 10.99, 26.09, or 26.50 RCW.

**Sec. 803.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

- (a) A class A felony, or an attempt to commit a class A felony;
- (b) Manslaughter in the first degree; or
- (c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon or firearm as defined in RCW 9A.04.110;

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. Community supervision is an individualized program comprised of one or more of the following:

- (a) Community-based sanctions;
- (b) Community-based rehabilitation;
- (c) Monitoring and reporting requirements;
- (4) Community-based sanctions may include one or more of the following:
  - (a) A fine, not to exceed one hundred dollars;
  - (b) Community service not to exceed one hundred fifty hours of service;

(5) "Community-based rehabilitation" means one or more of the following: Attendance of information classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(7) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court and may be served in a detention group home, detention foster home, or with electronic monitoring. Detention group homes and detention foster homes used for confinement shall not also be used for the placement of dependent children. Confinement in detention group homes and detention foster homes and electronic monitoring are subject to available funds;

(8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(10) "Department" means the department of social and health services;

(11) "Detention facility" means a county facility for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person or



entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(18) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors;

(d) Three gross misdemeanors;

(e) One class C felony except: (i)(A) Manslaughter in the second degree; or (B) felony stalking; and (ii) one misdemeanor or gross misdemeanor;

(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; residential burglary; vehicular homicide; or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(21) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's

counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(22) "Secretary" means the secretary of the department of social and health services;

(23) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(25) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(26) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(27) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration.

#### **PART IX - DISCHARGE OF OFFENDERS**

**Sec. 901.** RCW 9.94A.220 and 1984 c 209 s 14 are each amended to read as follows:

(1) When an offender has completed the requirements of the sentence, the secretary of the department or ~~((his))~~ the secretary's designee shall notify the sentencing court, which shall discharge the offender and provide the offender with a certificate of discharge.

(2) An offender who is not convicted of a violent offense or a sex offense and is sentenced to a term involving community supervision may be considered for a discharge of sentence by the sentencing court prior to the completion of community supervision, provided that the offender has completed at least one-half of the term of community supervision and has met all other sentence requirements.

(3) The discharge shall have the effect of restoring all civil rights lost by operation of law upon conviction, and the certificate of discharge shall so state. Nothing in this section prohibits the use of an offender's prior record for purposes of determining sentences for later offenses as provided in this chapter. Nothing in this section affects or prevents use of the offender's prior conviction in a later criminal prosecution either as an element of an offense or for impeachment purposes. A certificate of discharge is not based on a finding of rehabilitation.

(4) Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody.

#### **PART X - SITING OF CORRECTIONAL FACILITIES**

**NEW SECTION.** Sec. 1001. A new section is added to chapter 72.65 RCW to read as follows:

(1) The department and other state agencies that have responsibility for siting the department's facilities shall establish a process for early and continuous public participation in establishing or relocating work release or other community-based facilities. This process shall include public meetings in the local communities affected, opportunities for written and oral comments, and wide dissemination of proposals and alternatives.

(2) The department may establish or relocate a work release or other community-based facility only after holding local public meetings and providing public notification to local communities consistent with this chapter.

(3) When the department has selected three or fewer sites for final consideration for site selection of a work release or other community-based facility, notification shall be given and public hearings shall be held in the final three or fewer local communities where the siting is proposed. Additional notification and a public hearing shall also be conducted in the local community selected as the final proposed site, prior to completion of the siting process. All hearings and notifications shall be consistent with this chapter.

(4) Throughout this process the department shall provide notification to all newspapers of general circulation in the local area and all local radio stations, television stations, and cable networks.

(5) Notice shall also be provided to appropriate school districts, private schools, kindergartens, city and county libraries, and all other local government offices within a one-half mile radius of the proposed facility.

(6) In addition, the department shall also provide notice to the local chamber of commerce, local economic development agencies, and any other local organizations that request such notification from the department.

(7) Notification in writing shall be provided to all residents and/or property owners within a one-half mile radius of the proposed site.

#### **PART XI - MISCELLANEOUS**

**NEW SECTION.** Sec. 1101. Section 1001 of this act shall take effect July 1, 1994.

**NEW SECTION.** Sec. 1102. Part headings and the table of contents as used in this act do not constitute any part of the law.

**NEW SECTION.** Sec. 1103. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 9, 1994.  
Passed the House March 9, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 272

[Substitute Senate Bill 6018]

### REAL ESTATE EXCISE TAX—AUTHORIZED USES

AN ACT Relating to clarifying the authorized uses of the excise tax on the sale of real property; amending RCW 82.46.010; and creating a new section.

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

**Sec. 1.** RCW 82.46.010 and 1992 c 221 s 1 are each amended to read as follows:

(1) The legislative authority of any county or city shall identify in the adopted budget the capital projects funded in whole or in part from the proceeds of the tax authorized in this section, and shall indicate that such tax is intended to be in addition to other funds that may be reasonably available for such capital projects.

(2) The legislative authority of any county or any city may impose an excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-quarter of one percent of the selling price. The revenues from this tax shall be used by ~~((the respective jurisdictions))~~ any city or county with a population of five thousand or less and any city or county that does not plan under RCW 36.70A.040 for any capital purpose identified in a capital improvements plan and local capital improvements, including those listed in RCW 35.43.040.

After April 30, 1992, revenues generated from the tax imposed under this subsection in counties over five thousand population and cities over five thousand population that are required or choose to plan under RCW 36.70A.040 shall be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450. However, revenues (a) pledged by such counties and cities to debt retirement prior to April 30, 1992, may continue to be used for that purpose until the original debt for which the revenues were pledged is retired, or (b) committed prior to April 30, 1992, by such counties or cities to a project may continue to be used for that purpose until the project is completed.

(3) In lieu of imposing the tax authorized in RCW 82.14.030(2), the legislative authority of any county or any city may impose an additional excise tax on each sale of real property in the unincorporated areas of the county for the county tax and in the corporate limits of the city for the city tax at a rate not exceeding one-half of one percent of the selling price.

(4) Taxes imposed under this section shall be collected from persons who are taxable by the state under chapter 82.45 RCW upon the occurrence of any taxable event within the unincorporated areas of the county or within the corporate limits of the city, as the case may be.

(5) Taxes imposed under this section shall comply with all applicable rules, regulations, laws, and court decisions regarding real estate excise taxes as imposed by the state under chapter 82.45 RCW.

(6) As used in this section, "city" means any city or town and "capital project" means those public works projects of a local government for planning, acquisition, construction, reconstruction, repair, replacement, rehabilitation, or improvement of streets; roads; highways; sidewalks; street and road lighting systems; traffic signals; bridges; domestic water systems; storm and sanitary sewer systems; parks; recreational facilities; law enforcement facilities; fire protection facilities; trails; libraries; administrative and/or judicial facilities; river and/or waterway flood control projects by those jurisdictions that, prior to June 11, 1992, have expended funds derived from the tax authorized by this section for such purposes; and, until December 31, 1995, housing projects for those jurisdictions that, prior to June 11, 1992, have expended or committed to expend funds derived from the tax authorized by this section or the tax authorized by RCW 82.46.035 for such purposes.

**NEW SECTION.** Sec. 2. The legislature declares that, in section 13, chapter 49, Laws of 1982 1st ex. sess., effective July 1, 1982, its original intent in limiting the use of the proceeds of the tax authorized in RCW 82.46.010(2) to "local capital improvements" was to include in such expenditures the acquisition of real and personal property associated with such local capital improvements. Any such expenditures made by cities, towns, and counties on or after July 1, 1982, are hereby declared to be authorized and valid.

Passed the Senate March 6, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 273

[Engrossed Senate Bill 6025]

### CITIES AND TOWNS—BOUNDARIES, ZONING, DEDICATIONS

AN ACT Relating to cities and towns; amending RCW 35.16.010, 35.16.020, 35.16.030, 35.16.040, 35.16.050, 35.22.288, 35.23.310, 35.23.352, 35.24.220, 35.27.010, 35.27.300, 35.30.018, 35A.12.160, 42.24.180, 65.16.160, 68.24.180, 74.15.020, 82.14.330, and 41.16.050; adding a new section to chapter 35.16 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70A RCW; and declaring an emergency.

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

**Sec. 1.** RCW 35.16.010 and 1965 c 7 s 35.16.010 are each amended to read as follows:

Upon the filing of a petition (~~(praying for an election to submit the question of excluding)~~ which is sufficient as determined by RCW 35A.01.040 requesting the exclusion from the boundaries of a city or town of an area described by metes and bounds or by reference to a recorded plat or government survey (~~(from the boundaries of a city or town)~~), signed by qualified voters (~~(thereof)~~) of the city or town equal in number to not less than (~~(one-fifth)~~) ten percent of the number of (~~(votes cast)~~) voters voting at the last general municipal election, the city or town (~~(council)~~) legislative body shall (~~(cause to be submitted)~~) submit the question to the voters (~~(by a special election held for that purpose. Such special election shall not be held within ninety days next preceding any general election).~~ As an alternate method, the legislative body of the city or town may by resolution submit a proposal to the voters for excluding such a described area from the boundaries of the city or town. The question shall be submitted at the next general municipal election if one is to be held within one hundred eighty days or at a special election called for that purpose not less than ninety days nor more than one hundred eighty days after the certification of sufficiency of the petition or the passage of the resolution. The petition or resolution shall set out and describe the territory to be excluded from the (~~(corporation)~~) city or town, together with the boundaries of the (~~(said corporation)~~) city or town as it will exist after such change is made.

Sec. 2. RCW 35.16.020 and 1985 c 469 s 19 are each amended to read as follows:

Notice of a (~~(special)~~) corporate limit reduction election shall be published (~~(for)~~) at least (~~(four)~~) once each week for two consecutive weeks prior to the election in the official newspaper of the city or town. The notice shall distinctly state the proposition to be submitted, shall designate specifically the area proposed to be excluded and the boundaries of the city or town as they would be after the proposed exclusion of territory therefrom (~~(and shall require the voters to cast ballots which)~~). The ballots shall contain the words "For reduction of (~~(corporate)~~) city limits" and "Against reduction of (~~(corporate)~~) city limits" or words equivalent thereto. ((This notice shall be in addition to the notice required by chapter 29.27 RCW.))

Sec. 3. RCW 35.16.030 and 1965 c 7 s 35.16.030 are each amended to read as follows:

~~((On the Monday next succeeding a special corporate limit reduction election, the canvassing authority shall proceed to canvass the returns thereof and))~~ The election returns shall be canvassed as provided in RCW 29.13.040. If three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the (~~(council)~~) legislative body of the city or town, by an order entered on its minutes, shall (~~(cause)~~) direct the clerk to make and transmit to the office of the secretary of state a certified abstract of the vote. The abstract shall show the (~~(whole)~~) total number of (~~(electors)~~) voters voting, the number of votes cast for reduction and the number of votes cast against reduction.

**Sec. 4.** RCW 35.16.040 and 1965 c 7 s 35.16.040 are each amended to read as follows:

~~((Immediately))~~ Promptly after the filing of the abstract of votes with the office of the secretary of state, the legislative body of the city or town ~~((council))~~ shall adopt an ordinance defining and fixing the corporate limits after excluding the area as determined by the election. The ordinance shall also describe the excluded territory by metes and bounds or by reference to a recorded plat or government survey and declare it no longer a part of the city or town.

**Sec. 5.** RCW 35.16.050 and 1965 c 7 s 35.16.050 are each amended to read as follows:

~~((Immediately upon))~~ A certified copy of the ordinance defining the reduced city or town limits ~~((going into effect, a certified copy thereof))~~ together with a map showing the corporate limits as altered shall be filed and recorded in the office of the county auditor of the county in which the city or town is situated, ~~((and thereupon the boundaries shall be as set forth therein))~~ upon the effective date of the ordinance. The new boundaries of the city or town shall take effect immediately after they are filed and recorded with the county auditor.

**NEW SECTION.** **Sec. 6.** A new section is added to chapter 35.16 RCW to read as follows:

In regard to franchises previously granted for operation of any public service business or facility within the territory excluded from a city or town by proceedings under this chapter, the rights, obligations, and duties of the legislative body of the county or other political subdivision having jurisdiction over such territory and of the franchise holder shall be as provided in RCW 35.02.160, relating to inclusion of territory by an incorporation.

**Sec. 7.** RCW 35.22.288 and 1988 c 168 s 1 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city. For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in

the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

**Sec. 8.** RCW 35.23.310 and 1988 c 168 s 2 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city. For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

A certified copy of any ordinance certified to by the clerk, or a printed copy of any ordinance or compilation printed by authority of the city council and attested by the clerk shall be competent evidence in any court.

**Sec. 9.** RCW 35.23.352 and 1993 c 198 s 10 are each amended to read as follows:

(1) Any second or third class city or any town may construct any public works, as defined in RCW 39.04.010, by contract or day labor without calling for bids therefor whenever the estimated cost of the work or improvement, including cost of materials, supplies and equipment will not exceed the sum of thirty thousand dollars if more than one craft or trade is involved with the public works, or twenty thousand dollars if a single craft or trade is involved with the public works or the public works project is street signalization or street lighting. A public works project means a complete project. The restrictions in this subsection do not permit the division of the project into units of work or classes of work to avoid the restriction on work that may be performed by day labor on a single project.

Whenever the cost of the public work or improvement, including materials, supplies and equipment, will exceed these figures, the same shall be done by contract. All such contracts shall be let at public bidding upon publication of notice calling for sealed bids upon the work. The notice shall be published in the official newspaper, or a newspaper of general circulation most likely to bring responsive bids, at least thirteen days prior to the last date upon which bids will



be received. The notice shall generally state the nature of the work to be done that plans and specifications therefor shall then be on file in the city or town hall for public inspections, and require that bids be sealed and filed with the council or commission within the time specified therein. Each bid shall be accompanied by a bid proposal deposit in the form of a cashier's check, postal money order, or surety bond to the council or commission for a sum of not less than five percent of the amount of the bid, and no bid shall be considered unless accompanied by such bid proposal deposit. The council or commission of the city or town shall let the contract to the lowest responsible bidder or shall have power by resolution to reject any or all bids and to make further calls for bids in the same manner as the original call.

When the contract is let then all bid proposal deposits shall be returned to the bidders except that of the successful bidder which shall be retained until a contract is entered into and a bond to perform the work furnished, with surety satisfactory to the council or commission, in accordance with RCW 39.08.030. If the bidder fails to enter into the contract in accordance with his or her bid and furnish a bond within ten days from the date at which he or she is notified that he or she is the successful bidder, the check or postal money order and the amount thereof shall be forfeited to the council or commission or the council or commission shall recover the amount of the surety bond.

If no bid is received on the first call the council or commission may readvertise and make a second call, or may enter into a contract without any further call or may purchase the supplies, material or equipment and perform the work or improvement by day labor.

(2) The allocation of public works projects to be performed by city or town employees shall not be subject to a collective bargaining agreement.

(3) In lieu of the procedures of subsection (1) of this section, a second or third class city or a town may use ~~((and))~~ the small works roster process ~~((and))~~ provided in RCW 39.04.155 to award public works contracts with an estimated value of one hundred thousand dollars or less ~~((as provided in RCW 39.04.155))~~.

Whenever possible, the city or town shall invite at least one proposal from a minority or woman contractor who shall otherwise qualify under this section.

(4) After September 1, 1987, each second class city, third class city, and town shall use the form required by RCW 43.09.205 to account and record costs of public works in excess of five thousand dollars that are not let by contract.

(5) The cost of a separate public works project shall be the costs of the materials, equipment, supplies, and labor on that construction project.

(6) Any purchase of supplies, material, or equipment ~~((or services other than professional services))~~, except for public work or improvement, where the cost thereof exceeds seven thousand five hundred dollars shall be made upon call for bids.

(7) Bids shall be called annually and at a time and in the manner prescribed by ordinance for the publication in a newspaper of general circulation in the city

or town of all notices or newspaper publications required by law. The contract shall be awarded to the lowest responsible bidder.

(8) For advertisement and formal sealed bidding to be dispensed with as to purchases between seven thousand five hundred and fifteen thousand dollars, the city legislative authority must authorize by resolution, use of the uniform procedure provided in RCW 39.04.190.

(9) These requirements for purchasing may be waived by resolution of the city or town council which declared that the purchase is clearly and legitimately limited to a single source or supply within the near vicinity, or the materials, supplies, equipment, or services are subject to special market conditions, and recites why this situation exists. Such actions are subject to RCW 39.30.020.

(10) This section does not apply to performance-based contracts, as defined in RCW 39.35A.020(3), that are negotiated under chapter 39.35A RCW.

(11) Nothing in this section shall prohibit any second or third class city or any town from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused.

**Sec. 10.** RCW 35.24.220 and 1988 c 168 s 4 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the city's official newspaper.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

**Sec. 11.** RCW 35.27.010 and 1965 c 7 s 35.27.010 are each amended to read as follows:

Every municipal corporation of the fourth class shall be entitled the "Town of . . . ." (naming it), and by such name shall have perpetual succession, may sue, and be sued in all courts and places, and in all proceedings whatever; shall have and use a common seal, alterable at the pleasure of the town authorities, and may purchase, lease, receive, hold, and enjoy real and personal

property and control (~~and~~), lease, sublease, convey, or otherwise dispose of the same for the common benefit.

**Sec. 12.** RCW 35.27.300 and 1988 c 168 s 5 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the town.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the town publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a town publish the text or a summary of the content of each adopted ordinance, every town shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the town's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the town determines will satisfy the intent of this requirement.

**Sec. 13.** RCW 35.30.018 and 1988 c 168 s 6 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the official newspaper of the city.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

**NEW SECTION. Sec. 14.** A new section is added to chapter 35.63 RCW to read as follows:

No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the state department of licensing as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

**Sec. 15.** RCW 35A.12.160 and 1988 c 168 s 7 are each amended to read as follows:

Promptly after adoption, the text of each ordinance or a summary of the content of each ordinance shall be published at least once in the city's official newspaper.

For purposes of this section, a summary shall mean a brief description which succinctly describes the main points of the ordinance. Publication of the title of an ordinance authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a summary of that ordinance. When the city publishes a summary, the publication shall include a statement that the full text of the ordinance will be mailed upon request.

An inadvertent mistake or omission in publishing the text or a summary of the content of an ordinance shall not render the ordinance invalid.

In addition to the requirement that a city publish the text or a summary of the content of each adopted ordinance, every city shall establish a procedure for notifying the public of upcoming hearings and the preliminary agenda for the

forthcoming council meeting. Such procedure may include, but not be limited to, written notification to the city's official newspaper, publication of a notice in the official newspaper, posting of upcoming council meeting agendas, or such other processes as the city determines will satisfy the intent of this requirement.

**NEW SECTION.** **Sec. 16.** A new section is added to chapter 35A.63 RCW to read as follows:

No city may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified by the state department of licensing as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

**NEW SECTION.** **Sec. 17.** A new section is added to chapter 36.70A RCW to read as follows:

No city that plans or elects to plan under this chapter may enact, enforce, or maintain an ordinance, development regulation, zoning regulation, or official control, policy, or administrative practice which prohibits the use of a residential dwelling, located in an area zoned for residential or commercial use, as a family day-care provider's home facility.

A city may require that the facility: (1) Comply with all building, fire, safety, health code, and business licensing requirements; (2) conform to lot size, building size, setbacks, and lot coverage standards applicable to the zoning district except if the structure is a legal nonconforming structure; (3) is certified

by the state department of licensing as providing a safe passenger loading area; (4) include signage, if any, that conforms to applicable regulations; and (5) limit hours of operations to facilitate neighborhood compatibility, while also providing appropriate opportunity for persons who use family day-care and who work a nonstandard work shift.

A city may also require that the family day-care provider, before state licensing, require proof of written notification by the provider that the immediately adjoining property owners have been informed of the intent to locate and maintain such a facility. If a dispute arises between neighbors and the family day-care provider over licensing requirements, the licensor may provide a forum to resolve the dispute.

Nothing in this section shall be construed to prohibit a city that plans or elects to plan under this chapter from imposing zoning conditions on the establishment and maintenance of a family day-care provider's home in an area zoned for residential or commercial use, so long as such conditions are no more restrictive than conditions imposed on other residential dwellings in the same zone and the establishment of such facilities is not precluded. As used in this section, "family day-care provider" is as defined in RCW 74.15.020.

**Sec. 18.** RCW 42.24.180 and 1984 c 128 s 11 are each amended to read as follows:

In order to expedite the payment of claims, the legislative body of any taxing district, as defined in RCW 43.09.260, may authorize the issuance of warrants or checks in payment of claims after the provisions of this chapter have been met and after the officer designated by statute, or, in the absence of statute, an appropriate charter provision, ordinance, or resolution of the taxing district, has signed the checks or warrants, but before the legislative body has acted to approve the claims. The legislative body may stipulate that certain kinds or amounts of claims shall not be paid before the board has reviewed the supporting documentation and approved the issue of checks or warrants in payment of those claims. However, all of the following conditions shall be met before the payment:

(1) The auditing officer and the officer designated to sign the checks or warrants shall each be required to furnish an official bond for the faithful discharge of his or her duties in an amount determined by the legislative body but not less than fifty thousand dollars;

(2) The legislative body shall adopt contracting, hiring, purchasing, and disbursing policies that implement effective internal control;

(3) The legislative body shall provide for its review of the documentation supporting claims paid and for its approval of all checks or warrants issued in payment of claims at its next regularly scheduled public meeting or, for cities and towns, at a regularly scheduled public meeting within one month of issuance; and

(4) The legislative body shall require that if, upon review, it disapproves some claims, the auditing officer and the officer designated to sign the checks

or warrants shall jointly cause the disapproved claims to be recognized as receivables of the taxing district and to pursue collection diligently until the amounts disapproved are collected or until the legislative body is satisfied and approves the claims.

**Sec. 19.** RCW 65.16.160 and 1977 c 34 s 4 are each amended to read as follows:

(1) Whenever any county, city, or town is required by law to publish legal notices containing the full text of any proposed or adopted ordinance in a newspaper, the county, city, or town may publish a summary of the ordinance which summary shall be approved by the governing body and which shall include:

- (a) The name of the county, city, or town;
- (b) The formal identification or citation number of the ordinance;
- (c) A descriptive title;
- (d) A section-by-section summary;
- (e) Any other information which the county, city, or town finds is necessary to provide a complete summary; and
- (f) A statement that the full text will be mailed upon request.

Publication of the title of an ordinance by a city or town authorizing the issuance of bonds, notes, or other evidences of indebtedness shall constitute publication of a complete summary of that ordinance, and a section-by-section summary shall not be required.

(2) Subsection (1) of this section notwithstanding, whenever any publication is made under this section and the proposed or adopted ordinance contains provisions regarding taxation or penalties or contains legal descriptions of real property, then the sections containing this matter shall be published in full and shall not be summarized. When a legal description of real property is involved, the notice shall also include the street address or addresses of the property described, if any. In the case of descriptions covering more than one street address, the street addresses of the four corners of the area described shall meet this requirement.

(3) The full text of any ordinance which is summarized by publication under this section shall be mailed without charge to any person who requests the text from the adopting county, city, or town.

**Sec. 20.** RCW 68.24.180 and 1984 c 7 s 369 are each amended to read as follows:

After dedication under this title, and as long as the property remains dedicated to cemetery purposes, a railroad, street, road, alley, pipe line, pole line, or other public thoroughfare or utility shall not be laid out, through, over, or across any part of it without the consent of the cemetery authority owning and operating it, or of not less than two-thirds of the owners of interment plots; PROVIDED HOWEVER, That a city of under twenty thousand may initiate, prior to January 1, 1995, an action to condemn cemetery property if the purpose

is to further improve an existing street, or other public improvement and the proposed improvement does not interfere with existing interment plots containing human remains. (~~(However, so long as the action is commenced prior to March 31, 1961, the department of transportation may condemn for state highway purposes for Primary State Highway No. 14 in the vicinity of Gig Harbor land in any burial ground or cemetery in the following cases: (1) Where no organized or known authority is in charge of any such cemetery, or (2) where the necessary consent cannot be obtained and the court finds that considerations of highway safety necessitate the taking of the land. A judgment entered in the condemnation proceedings shall require that before an entry is made on the land condemned for state highway purposes, the state shall, at its own expense, remove or cause to be removed from the land any bodies buried therein and suitably reinter them elsewhere to the satisfaction of relatives, if they can be found.))~~)

**Sec. 21.** RCW 74.15.020 and 1991 c 128 s 14 are each amended to read as follows:

For the purpose of chapter 74.15 RCW and RCW 74.13.031, and unless otherwise clearly indicated by the context thereof, the following terms shall mean:

(1) "Department" means the state department of social and health services;  
 (2) "Secretary" means the secretary of social and health services;  
 (3) "Agency" means any person, firm, partnership, association, corporation, or facility which receives children, expectant mothers, or persons with developmental disabilities for control, care, or maintenance outside their own homes, or which places, arranges the placement of, or assists in the placement of children, expectant mothers, or persons with developmental disabilities for foster care or placement of children for adoption, and shall include the following irrespective of whether there is compensation to the agency or to the children, expectant mothers or persons with developmental disabilities for services rendered:

(a) "Group-care facility" means an agency, other than a foster-family home, which is maintained and operated for the care of a group of children on a twenty-four hour basis;

(b) "Child-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(c) "Maternity service" means an agency which provides or arranges for care or services to expectant mothers, before or during confinement, or which provides care as needed to mothers and their infants after confinement;

(d) "Day-care center" means an agency which regularly provides care for a group of children for periods of less than twenty-four hours;

(e) "Family day-care provider" means a licensed day-care provider who regularly provides day care for not more than twelve children in the provider's home in the family living quarters;

(f) "Foster-family home" means an agency which regularly provides care on a twenty-four hour basis to one or more children, expectant mothers, or persons



with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed;

((f)) (g) "Crisis residential center" means an agency which is a temporary protective residential facility operated to perform the duties specified in chapter 13.32A RCW, in the manner provided in RCW 74.13.032 through 74.13.036.

(4) "Agency" shall not include the following:

(a) Persons related by blood or marriage to the child, expectant mother, or persons with developmental disabilities in the following degrees: Parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, and/or first cousin;

(b) Persons who are legal guardians of the child, expectant mother, or persons with developmental disabilities;

(c) Persons who care for a neighbor's or friend's child or children, with or without compensation, where the person does not engage in such activity on a regular basis, or where parents on a mutually cooperative basis exchange care of one another's children, or persons who have the care of an exchange student in their own home;

(d) A person, partnership, corporation, or other entity that provides placement or similar services to exchange students or international student exchange visitors;

(e) Nursery schools or kindergartens which are engaged primarily in educational work with preschool children and in which no child is enrolled on a regular basis for more than four hours per day;

(f) Schools, including boarding schools, which are engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;

(g) Seasonal camps of three months' or less duration engaged primarily in recreational or educational activities;

(h) Hospitals licensed pursuant to chapter 70.41 RCW when performing functions defined in chapter 70.41 RCW, nursing homes licensed under chapter 18.51 RCW and boarding homes licensed under chapter 18.20 RCW;

(i) Licensed physicians or lawyers;

(j) Facilities providing care to children for periods of less than twenty-four hours whose parents remain on the premises to participate in activities other than employment;

(k) Facilities approved and certified under chapter 71A.22 RCW;

(l) Any agency having been in operation in this state ten years prior to June 8, 1967, and not seeking or accepting moneys or assistance from any state or federal agency, and is supported in part by an endowment or trust fund;

(m) Persons who have a child in their home for purposes of adoption, if the child was placed in such home by a licensed child-placing agency, an authorized

public or tribal agency or court or if a replacement report has been filed under chapter 26.33 RCW and the placement has been approved by the court;

(n) An agency operated by any unit of local, state, or federal government or an agency, located within the boundaries of a federally recognized Indian reservation, licensed by the Indian tribe;

(o) An agency located on a federal military reservation, except where the military authorities request that such agency be subject to the licensing requirements of this chapter.

(5) "Requirement" means any rule, regulation or standard of care to be maintained by an agency.

**Sec. 22.** RCW 82.14.330 and 1993 sp.s. c 21 s 3 are each amended to read as follows:

(1) The moneys deposited in the municipal criminal justice assistance account for distribution under this section shall be distributed to the cities of the state as follows:

(a) Twenty percent appropriated for distribution shall be distributed to cities with a three-year average violent crime rate for each one thousand in population in excess of one hundred fifty percent of the state-wide three-year average violent crime rate for each one thousand in population. The three-year average violent crime rate shall be calculated using the violent crime rates for each of the preceding three years from the annual reports on crime in Washington state as published by the Washington association of sheriffs and police chiefs. Moneys shall be distributed under this subsection (1)(a) ratably based on population as last determined by the office of financial management, but no city may receive more than one dollar per capita. Moneys remaining undistributed under this subsection at the end of each calendar year shall be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

(b) Sixteen percent shall be distributed to cities ratably based on population as last determined by the office of financial management, but no city may receive less than one thousand dollars.

The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection shall be distributed at such times as distributions are made under RCW 82.44.150.

Moneys distributed under this subsection shall be expended exclusively for criminal justice purposes and shall not be used to replace or supplant existing funding. Criminal justice purposes are defined as activities that substantially assist the criminal justice system, which may include circumstances where ancillary benefit to the civil justice system occurs, and which includes domestic violence services such as those provided by domestic violence programs, community advocates, and legal advocates, as defined in RCW 70.123.020. Existing funding for purposes of this subsection is defined as calendar year 1989

actual operating expenditures for criminal justice purposes. Calendar year 1989 actual operating expenditures for criminal justice purposes exclude the following: Expenditures for extraordinary events not likely to reoccur, changes in contract provisions for criminal justice services, beyond the control of the local jurisdiction receiving the services, and major nonrecurring capital expenditures.

(2) In addition to the distributions under subsection (1) of this section:

(a) Fourteen percent shall be distributed to cities that have initiated innovative law enforcement strategies, including alternative sentencing and crime prevention programs. No city may receive more than one dollar per capita under this subsection (2)(a).

(b) Twenty percent shall be distributed to cities that have initiated programs to help at-risk children or child abuse victim response programs. No city may receive more than fifty cents per capita under this subsection (2)(b).

(c) Twenty percent shall be distributed to cities that have initiated programs designed to reduce the level of domestic violence within their jurisdictions or to provide counseling for domestic violence victims. No city may receive more than fifty cents per capita under this subsection (2)(c).

(d) Ten percent shall be distributed to cities that contract with another governmental agency for a majority of the city's law enforcement services.

Moneys distributed under this subsection shall be distributed to those cities that submit funding requests under this subsection to the department of community, trade, and economic development based on criteria developed under RCW 82.14.335. Allocation of funds shall be in proportion to the population of qualified jurisdictions, but the distribution to a city shall not exceed the amount of funds requested. Cities shall submit requests for program funding to the department of community, trade, and economic development by November 1 of each year for funding the following year. The department shall certify to the state treasurer the cities eligible for funding under this subsection and the amount of each allocation.

~~((One half of the moneys distributed under (a) through (d) of this subsection shall be distributed on March 1st and the remaining one half of the moneys shall be distributed on September 1st))~~ The moneys deposited in the municipal criminal justice assistance account for distribution under this subsection shall be distributed at the times as distributions are made under RCW 82.44.150. Moneys remaining undistributed under this subsection at the end of each calendar year shall be distributed to the criminal justice training commission to reimburse participating city law enforcement agencies with ten or fewer full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training, as provided in RCW 43.101.200.

If a city is found by the state auditor to have expended funds received under this subsection in a manner that does not comply with the criteria under which the moneys were received, the city shall be ineligible to receive future distributions under this subsection until the use of the moneys are justified to the

satisfaction of the director or are repaid to the state general fund. The director may allow noncomplying use of moneys received under this subsection upon a showing of hardship or other emergent need.

(3) Notwithstanding other provisions of this section, the distributions to any city that substantially decriminalizes or repeals its criminal code after July 1, 1990, and that does not reimburse the county for costs associated with criminal cases under RCW 3.50.800 or 3.50.805(2), shall be made to the county in which the city is located.

**Sec. 23.** RCW 41.16.050 and 1986 c 296 s 3 are each amended to read as follows:

There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the firemen's pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments, or donations given or paid thereto; (2) forty-five percent of all moneys received by the state from taxes on fire insurance premiums; (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by ~~((firemen))~~ fire fighters as provided for herein. The moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid ~~((firemen))~~ fire fighters in the city, town, or fire protection district bears to the total number of paid ~~((firemen))~~ fire fighters throughout the state to be ascertained in the following manner: The secretary of the firemen's pension board of each city, town, and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after June 7, 1961, and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid ~~((firemen))~~ fire fighters in the fire department in such city, town, or fire protection district. For any city or town annexed by a fire protection district at any time before, on, or after the effective date of this section, the city or town shall continue to certify to the state treasurer the number of paid fire fighters in the city or town fire department immediately before annexation until all obligations against the firemen's pension fund in the city or town have been satisfied. For the purposes of the calculation in this section, the state treasurer shall subtract the number certified by the annexed city or town from the number of paid fire fighters certified by an annexing fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town, and fire protection district coming under the provisions of this chapter his or her warrant, payable to each city, town, or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town, or fire protection district shall place the amount thereof to the credit of the firemen's pension fund of such city, town, or fire protection district.

**NEW SECTION.** **Sec. 24.** Section 22 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the

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

Passed the Senate March 10, 1994.

Passed the House March 10, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 274

[Substitute Senate Bill 6039]

### MOTOR VEHICLE DEALER FRANCHISE EQUITY

AN ACT Relating to motor vehicle dealer franchise equity; amending RCW 46.96.120 and 46.96.130; adding new sections to chapter 46.96 RCW; and recodifying RCW 46.96.120 and 46.96.130.

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

**NEW SECTION.** Sec. 1. (1) For the purposes of this section, and throughout this chapter, the term "relevant market area" is defined as follows:

(a) If the population in the county in which the proposed new or relocated dealership is to be located is four hundred thousand or more, the relevant market area is the geographic area within a radius of eight miles around the proposed site;

(b) If the population in the county in which the proposed new or relocated dealership is to be located is two hundred thousand or more and less than four hundred thousand, the relevant market area is the geographic area within a radius of twelve miles around the proposed site;

(c) If the population in the county in which the proposed new or relocated dealership is to be located is less than two hundred thousand, the relevant market area is the geographic area within a radius of sixteen miles around the proposed site.

In determining population for this definition, the most recent census by the United States Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be accumulated for all census tracts either wholly or partially within the relevant market area.

(2) For the purpose of sections 1 through 5 of this act, the term "motor vehicle dealer" does not include dealerships who exclusively market vehicles 19,000 pounds gross vehicle weight and above.

(3) Notwithstanding the terms of a franchise and notwithstanding the terms of a waiver, if a manufacturer intends or proposes to enter into a franchise to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into a relevant market area in which the same line make of motor vehicle is then represented, the manufacturer shall provide at least sixty days advance written notice to the department and to each new motor vehicle dealer of the same line make in the relevant market area, of the

manufacturer's intention to establish an additional new motor vehicle dealer or to relocate an existing new motor vehicle dealer within or into the relevant market area. The notice shall be sent by certified mail to each such party and shall include the following information:

(a) The specific location at which the additional or relocated motor vehicle dealer will be established;

(b) The date on or after which the additional or relocated motor vehicle dealer intends to commence business at the proposed location;

(c) The identity of all motor vehicle dealers who are franchised to sell the same line make vehicles as the proposed dealer and who have licensed locations within the relevant market area;

(d) The names and addresses, if available, of the owners of and principal investors in the proposed additional or relocated motor vehicle dealership; and

(e) The specific grounds or reasons for the proposed establishment of an additional motor vehicle dealer or relocation of an existing dealer.

**NEW SECTION. Sec. 2.** (1) Within thirty days after receipt of the notice under section 1 of this act, or within thirty days after the end of an appeal procedure provided by the manufacturer, whichever is greater, a new motor vehicle dealer so notified or entitled to notice may file a petition with the department protesting the proposed establishment or relocation. The petition shall contain a short statement setting forth the reasons for the dealer's objection to the proposed establishment or relocation. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed and shall request the appointment of an administrative law judge under chapter 34.12 RCW to conduct a hearing. The manufacturer shall not establish or relocate the new motor vehicle dealer until the administrative law judge has held a hearing and has determined that there is good cause for permitting the proposed establishment or relocation. When more than one protest is filed against the establishment or relocation of the same dealer, the administrative law judge shall consolidate the hearings to expedite disposition of the matter.

(2) If a manufacturer provides in the franchise agreement or by written statement distributed and provided to its dealers for arbitration under the Washington Arbitration Act, chapter 7.04 RCW, as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the provisions of this section and section 4 of this act relating to hearings by an administrative law judge do not apply, and a dispute regarding the establishment of an additional new motor vehicle dealer or the relocation of an existing new motor vehicle dealer shall be determined in an arbitration proceeding conducted in accordance with the Washington Arbitration Act, chapter 7.04 RCW. The thirty-day period for filing a protest under this section still applies except that the protesting dealer shall file his protest with the manufacturer within thirty days after receipt of the notice under section 1 of this act.

(3) The dispute shall be referred for arbitration to such arbitrator as may be agreed upon by the parties to the dispute. If the parties cannot agree upon a single arbitrator within thirty days from the date the protest is filed, the protesting dealer will select an arbitrator, the manufacturer will select an arbitrator, and the two arbitrators will then select a third. If a third arbitrator is not agreed upon within thirty days, any party may apply to the superior court, and the judge of the superior court having jurisdiction will appoint the third arbitrator. The protesting dealer will pay the arbitrator selected by him, and the manufacturer will pay the arbitrator it selected. The expense of the third arbitrator and all other expenses of arbitration will be shared equally by the parties. Attorneys' fees and fees paid to expert witnesses are not expenses of arbitration and will be paid by the person incurring them.

(4) Notwithstanding the terms of a franchise or written statement of the manufacturer and notwithstanding the terms of a waiver, the arbitration will take place in the state of Washington in the county where the protesting dealer has his principal place of business. Section 3 of this act applies to a determination made by the arbitrator or arbitrators in determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer, and the manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation. After a hearing has been held, the arbitrator or arbitrators shall render a decision as expeditiously as possible, but in any event not later than one hundred twenty days from the date the arbitrator or arbitrators are selected or appointed. The manufacturer shall not establish or relocate the new motor vehicle dealer until the arbitration hearing has been held and the arbitrator or arbitrators have determined that there is good cause for permitting the proposed establishment or relocation. The written decision of the arbitrator is binding upon the parties unless modified, corrected, or vacated under the Washington Arbitration Act. Any party may appeal the decision of the arbitrator under the Washington Arbitration Act, chapter 7.04 RCW.

(5) If the franchise agreement or the manufacturer's written statement distributed and provided to its dealers does not provide for arbitration under the Washington Arbitration Act as a mechanism for resolving disputes relating to the establishment of an additional new motor vehicle dealer or the relocation of a new motor vehicle dealer, then the hearing provisions of this section and section 4 of this act apply. Nothing in this section is intended to preclude a new motor vehicle dealer from electing to use any other dispute resolution mechanism offered by a manufacturer.

**NEW SECTION.** Sec. 3. In determining whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer of the same line make, the administrative law judge shall take into consideration the existing circumstances, including, but not limited to:

(1) The extent, nature, and permanency of the investment of both the existing motor vehicle dealers of the same line make in the relevant market area

and the proposed additional or relocating new motor vehicle dealer, including obligations reasonably incurred by the existing dealers to perform their obligations under their respective franchises;

(2) The growth or decline in population and new motor vehicle registrations during the past five years in the relevant market area;

(3) The effect on the consuming public in the relevant market area;

(4) The effect on the existing new motor vehicle dealers in the relevant market area, including any adverse financial impact;

(5) The reasonably expected or anticipated vehicle market for the relevant market area, including demographic factors such as age of population, income, education, size class preference, product popularity, retail lease transactions, or other factors affecting sales to consumers in the relevant market area;

(6) Whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established;

(7) Whether the new motor vehicle dealers of the same line make in the relevant market area are providing adequate competition and convenient customer care for the motor vehicles of the same line make in the relevant market area, including the adequacy of motor vehicle sales and service facilities, equipment, supply of vehicle parts, and qualified service personnel;

(8) Whether the establishment of an additional new motor vehicle dealer would increase competition and be in the public interest;

(9) Whether the manufacturer is motivated principally by good faith to establish an additional or new motor vehicle dealer and not by noneconomic considerations;

(10) Whether the manufacturer has denied its existing new motor vehicle dealers of the same line make the opportunity for reasonable growth, market expansion, establishment of a subagency, or relocation;

(11) Whether the protesting dealer or dealers are in substantial compliance with their dealer agreements or franchises; and

(12) Whether the manufacturer has complied with the requirements of sections 1 and 2 of this act.

In considering the factors set forth in this section, the administrative law judge shall give the factors equal weight, and in making a determination as to whether good cause exists for permitting the proposed establishment or relocation of a new motor vehicle dealer of the same line make, the administrative law judge must find that at least nine of the factors set forth in this section weigh in favor of the manufacturer and in favor of the proposed establishment or relocation of a new motor vehicle dealer.

**NEW SECTION.** Sec. 4. (1) The manufacturer has the burden of proof to establish that good cause exists for permitting the proposed establishment or relocation.

(2) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. The administrative law judge shall render the final decision as



expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. If more than one protest is filed, the one hundred twenty days commences to run from the date the last protest is filed. A party to such a hearing aggrieved by the final order of the administrative law judge may appeal as provided and allowed in RCW 46.96.050(3).

**NEW SECTION.** Sec. 5. Sections 1 through 4 of this act do not apply:

(1) To the sale or transfer of the ownership or assets of an existing new motor vehicle dealer where the transferee proposes to engage in business representing the same line make at the same location or within two miles of that location;

(2) To the relocation of an existing new motor vehicle dealer within the dealer's relevant market area, if the relocation is not at a site within eight miles of any new motor vehicle dealer of the same line make;

(3) If the proposed new motor vehicle dealer is to be established at or within two miles of a location at which a former new motor vehicle dealer of the same line make had ceased operating within the previous twenty-four months;

(4) Where the proposed relocation is two miles or less from the existing location of the relocating new motor vehicle dealer; or

(5) Where the proposed relocation is to be further away from all other existing new motor vehicle dealers of the same line make in the relevant market area.

**NEW SECTION.** Sec. 6. A manufacturer shall not coerce, threaten, intimidate, or require a new motor vehicle dealer, as a condition to granting or renewing a franchise, to waive, limit, or disclaim a right that the dealer may have to protest the establishment or relocation of another motor vehicle dealer in the relevant market area as provided in section 2 of this act.

**Sec. 7.** RCW 46.96.120 and 1989 c 415 s 18 are each amended to read as follows:

(1) Notwithstanding the terms of a franchise, a manufacturer shall not unreasonably withhold consent to the sale, transfer, or exchange of a franchise to a qualified buyer who meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer or is capable of being licensed as a new motor vehicle dealer in the state of Washington. A decision or determination made by the administrative law judge as to whether a qualified buyer is capable of being licensed as a new motor vehicle dealer in the state of Washington is not conclusive or determinative of any ultimate determination made by the department of licensing as to the buyer's qualification for a motor vehicle dealer license. A manufacturer's failure to respond in writing to a request for consent under this subsection within sixty days after receipt of a written request on the forms, if any, generally used by the manufacturer containing the information and reasonable promises required by a manufacturer is deemed to be consent to the request. A manufacturer may request, and, if so requested, the applicant for a franchise (a) shall promptly

provide such personal and financial information as is reasonably necessary to determine whether the sale, transfer, or exchange should be approved, and (b) shall agree to be bound by all reasonable terms and conditions of the franchise.

(2) If a manufacturer refuses to approve the sale, transfer, or exchange of a franchise, the manufacturer shall serve written notice on the applicant, the transferring, selling, or exchanging new motor vehicle dealer, and the department of its refusal to approve the transfer of the franchise no later than sixty days after the date the manufacturer receives the written request from the new motor vehicle dealer. If the manufacturer has requested personal or financial information from the applicant under subsection (1) of this section, the notice shall be served not later than sixty days after the receipt of all of such documents. Service of all notices under this section shall be made by personal service or by certified mail, return receipt requested.

(3) The notice in subsection (2) of this section shall state the specific grounds for the refusal to approve the sale, transfer, or exchange of the franchise.

(4) Within twenty days after receipt of the notice of refusal to approve the sale, transfer, or exchange of the franchise by the transferring new motor vehicle dealer, the new motor vehicle dealer may file a petition with the department to protest the refusal to approve the sale, transfer, or exchange. The petition shall contain a short statement setting forth the reasons for the dealer's protest. Upon the filing of a protest and the receipt of the filing fee, the department shall promptly notify the manufacturer that a timely protest has been filed, and the department shall arrange for a hearing with an administrative law judge as the presiding officer to determine if the manufacturer unreasonably withheld consent to the sale, transfer, or exchange of the franchise.

(5) In determining whether the manufacturer unreasonably withheld its approval to the sale, transfer, or exchange, the manufacturer has the burden of proof that it acted reasonably. A manufacturer's refusal to accept or approve a proposed buyer who otherwise meets the normal, reasonable, and uniformly applied standards established by the manufacturer for the appointment of a new dealer, or who otherwise is capable of being licensed as a new motor vehicle dealer in the state of Washington, is presumed to be unreasonable.

(6) The administrative law judge shall conduct a hearing and render a final decision as expeditiously as possible, but in any event not later than one hundred twenty days after a protest is filed. Only the selling, transferring, or exchanging new motor vehicle dealer and the manufacturer may be parties to the hearing.

(7) The administrative law judge shall conduct any hearing as provided in RCW 46.96.050(2), and all hearing costs shall be borne as provided in that subsection. Only the manufacturer and the selling, transferring, or exchanging new motor vehicle dealer may appeal the final order of the administrative law judge as provided in RCW 46.96.050(3).

(8) This section and RCW 46.96.030 through 46.96.110 apply to all franchises and contracts existing on July 23, 1989, between manufacturers and

new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

(9) Sections 1 through 6 of this act apply to all franchises and contracts existing on October 1, 1994, between manufacturers and new motor vehicle dealers as well as to all future franchises and contracts between manufacturers and new motor vehicle dealers.

**Sec. 8.** RCW 46.96.130 and 1989 c 415 s 19 are each amended to read as follows:

The department shall determine and establish the amount of the filing fee required in RCW 46.96.040, 46.96.110, section 2 of this act, and 46.96.120 (as recodified by section 9 of this act). The fees shall be set in accordance with RCW 43.24.086.

The department may also require the petitioning or protesting party to give security, in such sum as the department deems proper but not in any event to exceed one thousand dollars, for the payment of such costs as may be incurred in conducting the hearing as required under this chapter. The security may be given in the form of a bond or stipulation or other undertaking with one or more sureties.

At the conclusion of the hearing, the department shall assess, in equal shares, each of the parties to the hearing for the cost of conducting the hearing. Upon receipt of payment of the costs, the department shall refund and return to the petitioning party such excess funds, if any, initially posted by the party as security for the hearing costs. If the petitioning party provided security in the form of a bond or other undertaking with one or more sureties, the bond or other undertaking shall then be exonerated and the surety or sureties under it discharged.

**NEW SECTION. Sec. 9.** Sections 1 through 6 of this act are each added to chapter 46.96 RCW. RCW 46.96.120 and 46.96.130, as amended by this act, are recodified to follow sections 1 through 6 of this act within that chapter.

Passed the Senate March 5, 1994.

Passed the House March 1, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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**CHAPTER 275**

[Substitute Senate Bill 6047]

**DRIVING UNDER THE INFLUENCE**

AN ACT Relating to crimes involving alcohol, drugs, or mental problems; amending RCW 46.61.502, 46.61.504, 46.20.308, 46.01.260, 46.52.100, 46.52.130, 10.05.060, 10.05.090, 10.05.120, 46.20.710, 46.20.720, 46.20.730, 46.20.740, 46.20.750, 46.61.506, 46.20.311, 46.04.580, 46.20.391, 5.40.060, 46.55.113, 46.63.020, 3.62.090, 10.05.120, 35.21.165, 36.32.127, 46.04.480, 46.61.5151, and 46.61.5152; reenacting and amending RCW 9.94A.320; adding a new section to chapter 46.04 RCW; adding new sections to chapter 46.61 RCW; adding a new section to chapter 46.20 RCW; creating new sections; repealing RCW 46.61.515; repealing 1993 c 239 s 3 (uncodified); prescribing penalties; making an appropriation; providing an effective date; and providing an expiration date.

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

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**PART I - DUI PENALTIES**

NEW SECTION. **Sec. 1.** A new section is added to chapter 46.04 RCW to read as follows:

"Alcohol concentration" means (1) grams of alcohol per two hundred ten liters of a person's breath, or (2) the percent by weight of alcohol in a person's blood.

Sec. 2. RCW 46.61.502 and 1993 c 328 s 1 are each amended to read as follows:

~~(1) (A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:~~

~~(a) And the person has 0.10 grams or more of alcohol per two hundred ten liters of breath within two hours after driving, as shown by analysis of the person's breath made under RCW 46.61.506; or~~

~~(b) And the person has 0.10 percent or more by weight of alcohol in the person's blood within two hours after driving, as shown by analysis of the person's blood made under RCW 46.61.506; or~~

~~(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or~~

~~(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.~~

~~(2) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section.~~

~~(3) It is an affirmative defense to a violation of subsection (1) (a) and (b) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.~~

~~(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more of alcohol in the person's blood, pursuant to subsection (1) (a) and (b) of this section, and may be used as evidence that a person was under the influence of or affected by intoxicating liquors or any drug pursuant to subsection (1) (c) and (d) of this section.)~~ A person is guilty of driving while under the influence of intoxicating liquor or any drug if the person drives a vehicle within this state:

(a) And the person has, within two hours after driving, an alcohol concentration of 0.10 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state shall not constitute a defense against a charge of violating this section.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of driving and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after driving. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged driving may be used as evidence that within two hours of the alleged driving, a person had an alcohol concentration of 0.10 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1) (b) or (c) of this section.

(5) A violation of this section is a gross misdemeanor.

Sec. 3. RCW 46.61.504 and 1993 c 328 s 2 are each amended to read as follows:

~~(1) ((A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:~~

~~(a) And the person has 0.10 grams or more of alcohol per two hundred ten liters of breath within two hours after being in actual physical control of a motor vehicle, as shown by analysis of the person's breath made under RCW 46.61.506; or~~

~~(b) And the person has 0.10 percent or more by weight of alcohol in the person's blood within two hours after being in actual physical control of a motor vehicle, as shown by analysis of the person's blood made under RCW 46.61.506; or~~

~~(c) While the person is under the influence of or affected by intoxicating liquor or any drug; or~~

~~(d) While the person is under the combined influence of or affected by intoxicating liquor and any drug.~~

~~(2) The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.~~

~~(3) It is an affirmative defense to a violation of subsection (1) (a) and (b) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the~~

~~time of being in actual physical control of a motor vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after being in actual physical control of a motor vehicle. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.~~

~~(4) Analyses of blood or breath samples obtained more than two hours after the alleged actual physical control of a motor vehicle may be used as evidence that within two hours of the alleged actual physical control of a motor vehicle, a person had 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more of alcohol in the person's blood, pursuant to subsection (1) (a) and (b) of this section, and may be used as evidence that a person was under the influence of or affected by intoxicating liquors or any drug pursuant to subsection (1) (c) and (d) of this section.)~~ A person is guilty of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug if the person has actual physical control of a vehicle within this state:

(a) And the person has, within two hours after being in actual physical control of the vehicle, an alcohol concentration of 0.10 or higher as shown by analysis of the person's breath or blood made under RCW 46.61.506; or

(b) While the person is under the influence of or affected by intoxicating liquor or any drug; or

(c) While the person is under the combined influence of or affected by intoxicating liquor and any drug.

(2) The fact that a person charged with a violation of this section is or has been entitled to use a drug under the laws of this state does not constitute a defense against any charge of violating this section. No person may be convicted under this section if, prior to being pursued by a law enforcement officer, the person has moved the vehicle safely off the roadway.

(3) It is an affirmative defense to a violation of subsection (1)(a) of this section which the defendant must prove by a preponderance of the evidence that the defendant consumed a sufficient quantity of alcohol after the time of being in actual physical control of the vehicle and before the administration of an analysis of the person's breath or blood to cause the defendant's alcohol concentration to be 0.10 or more within two hours after being in such control. The court shall not admit evidence of this defense unless the defendant notifies the prosecution prior to the omnibus or pretrial hearing in the case of the defendant's intent to assert the affirmative defense.

(4) Analyses of blood or breath samples obtained more than two hours after the alleged being in actual physical control of a vehicle may be used as evidence that within two hours of the alleged being in such control, a person had an alcohol concentration of 0.10 or more in violation of subsection (1)(a) of this section, and in any case in which the analysis shows an alcohol concentration

above 0.00 may be used as evidence that a person was under the influence of or affected by intoxicating liquor or any drug in violation of subsection (1) (b) or (c) of this section.

(5) A violation of this section is a gross misdemeanor.

**NEW SECTION. Sec. 4.** A new section is added to chapter 46.61 RCW to read as follows:

(1) A person whose driver's license is not in a probationary, suspended, or revoked status, and who has not been convicted of a violation of RCW 46.61.502 or 46.61.504 that was committed within five years before the commission of the current violation, and who violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol concentration of at least 0.10 but less than 0.15, or a person who violates RCW 46.61.502(1)(b) or (c) or 46.61.504(1)(b) or (c) and for any reason other than the person's refusal to take a test offered pursuant to RCW 46.20.308 the person's alcohol concentration is not proved, is guilty of a gross misdemeanor and shall be punished as follows:

(a) By imprisonment for not less than one day nor more than one year. Twenty-four consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(b) By a fine of not less than three hundred fifty dollars nor more than five thousand dollars. Three hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(c) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of ninety days. The court may suspend all or part of the ninety-day period of suspension upon a plea agreement executed by the defendant and the prosecutor. The court shall notify the department of licensing of the conviction and of any period of suspension and shall notify the department of the person's completion of any period of suspension. Upon receiving notification of the conviction, or if applicable, upon receiving notification of the completion of any period of suspension, the department shall issue the offender a probationary license in accordance with section 8 of this act.

(2) A person whose driver's license is not in a probationary, suspended, or revoked status, and who has not been convicted of a violation of RCW 46.61.502 or 46.61.504 that was committed within five years before the commission of the current violation, and who either:

(a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol concentration of 0.15 or more; or

(b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c) and, because of the person's refusal to take a test offered pursuant to RCW 46.20.308,



there is no test result indicating the person's alcohol concentration, is guilty of a gross misdemeanor and shall be punished as follows:

(i) By imprisonment for not less than two days nor more than one year. Forty-eight consecutive hours of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would impose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By suspension by the department of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one hundred twenty days. The court shall notify the department of the conviction, and upon receiving notification of the conviction the department shall suspend the offender's license and shall issue the offender a probationary license in accordance with section 8 of this act.

(3) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(4) Upon conviction under this section, the offender's driver's license is deemed to be in a probationary status for five years from the date of the issuance of a probationary license under section 8 of this act. Being on probationary status does not authorize a person to drive during any period of license suspension imposed as a penalty for the infraction.

(5) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of section 9 of this act.

(6)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence

may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a) (i) and (ii) or (a) (i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

NEW SECTION. Sec. 5. A new section is added to chapter 46.61 RCW to read as follows:

(1) A person whose driver's license is in a probationary status and who violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol concentration of at least 0.10 but less than 0.15 is guilty of a gross misdemeanor and shall be punished as follows:

(a) By imprisonment for not less than seven days nor more than one year. Seven consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(b) By a fine of not less than five hundred dollars nor more than five thousand dollars. Five hundred dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(c) By suspension of the offender's license or permit to drive, or suspension of any nonresident privilege to drive, for a period of one year. The court shall notify the department of the conviction, and upon receiving notification the department shall suspend the offender's license and shall issue the offender a probationary license in accordance with section 8 of this act.

(2) A person whose driver's license is in a probationary status and who either:

(a) Violates RCW 46.61.502(1)(a) or 46.61.504(1)(a) because of an alcohol concentration of 0.15 or more; or

(b) Violates RCW 46.61.502(1) (b) or (c) or 46.61.504(1) (b) or (c) and, because of the person's refusal to take a test offered pursuant to RCW 46.20.308, there is no test result indicating the person's alcohol concentration, is guilty of a gross misdemeanor and shall be punished as follows:

(i) By imprisonment for not less than ten days nor more than one year. Ten consecutive days of the imprisonment may not be suspended or deferred unless

the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(ii) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(iii) By revocation of the offender's license or permit to drive or of any nonresident privilege to drive, for a period of four hundred fifty days. The court shall notify the department of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license, and upon determining that the offender is otherwise qualified in accordance with RCW 46.20.311, the department shall issue the offender a probationary license in accordance with section 8 of this act.

(3) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(4) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of section 9 of this act. An offender punishable under subsection (1) or (2) of this section is subject to the vehicle seizure and forfeiture provisions of RCW 46.61.511. No offender punishable under this section is eligible for an occupational license under RCW 46.20.391.

(5)(a) In addition to any nonsuspendable and nondeferrable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a) (i) and (ii) or (a) (i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

**NEW SECTION.** Sec. 6. A new section is added to chapter 46.61 RCW to read as follows:

(1) A person who violates RCW 46.61.502 or 46.61.504 and who either has a driver's license in a suspended or revoked status or who has been convicted under section 5 of this act or RCW 46.61.502 or 46.61.504 of an offense that was committed within five years before the commission of the current violation, is guilty of a gross misdemeanor and shall be punished as follows:

(a) By imprisonment for not less than ninety days nor more than one year. Ninety consecutive days of the imprisonment may not be suspended or deferred unless the court finds that the imposition of this mandatory minimum sentence would pose a substantial risk to the offender's physical or mental well-being. Whenever the mandatory minimum sentence is suspended or deferred, the court shall state in writing the reason for granting the suspension or deferral and the facts upon which the suspension or deferral is based; and

(b) By a fine of not less than seven hundred fifty dollars nor more than five thousand dollars. Seven hundred fifty dollars of the fine may not be suspended or deferred unless the court finds the offender to be indigent; and

(c) By revocation by the department of licensing of the offender's license or permit to drive or of any nonresident privilege to drive, for a period of two years. The court shall notify the department of the conviction, and upon receiving notification of the conviction the department shall revoke the offender's license. Following the revocation and upon determining that the offender is otherwise qualified in accordance with RCW 46.20.311, the department shall issue the offender a probationary license in accordance with section 8 of this act.

(2) In exercising its discretion in setting penalties within the limits allowed by this section, the court shall particularly consider whether the person's driving at the time of the offense was responsible for injury or damage to another or another's property.

(3) An offender punishable under this section is subject to the alcohol assessment and treatment provisions of section 9 of this act. An offender punishable under this section is subject to the vehicle seizure and forfeiture provisions of RCW 46.61.511. No offender punishable under this section is eligible for an occupational license under RCW 46.20.391.

(4)(a) In addition to any nonsuspendable and nondeferable jail sentence required by this section, whenever the court imposes less than one year in jail, the court shall also suspend but shall not defer a period of confinement for a

period not exceeding two years. The court shall impose conditions of probation that include: (i) Not driving a motor vehicle within this state without a valid license to drive and proof of financial responsibility for the future; (ii) not driving a motor vehicle within this state while having an alcohol concentration of 0.08 or more within two hours after driving; and (iii) not refusing to submit to a test of his or her breath or blood to determine alcohol concentration upon request of a law enforcement officer who has reasonable grounds to believe the person was driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. The court may impose conditions of probation that include nonrepetition, alcohol or drug treatment, supervised probation, or other conditions that may be appropriate. The sentence may be imposed in whole or in part upon violation of a condition of probation during the suspension period.

(b) For each violation of mandatory conditions of probation under (a) (i) and (ii) or (a) (i) and (iii) of this subsection, the court shall order the convicted person to be confined for thirty days, which shall not be suspended or deferred.

(c) For each incident involving a violation of a mandatory condition of probation imposed under this subsection, the license, permit, or privilege to drive of the person shall be suspended by the court for thirty days or, if such license, permit, or privilege to drive already is suspended, revoked, or denied at the time the finding of probation violation is made, the suspension, revocation, or denial then in effect shall be extended by thirty days. The court shall notify the department of any suspension, revocation, or denial or any extension of a suspension, revocation, or denial imposed under this subsection.

NEW SECTION. Sec. 7. A new section is added to chapter 46.61 RCW to read as follows:

(1)(a) In addition to penalties set forth in sections 4 through 6 of this act, a one hundred twenty-five dollar fee shall be assessed to a person who is either convicted, sentenced to a lesser charge, or given deferred prosecution, as a result of an arrest for violating RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the purpose of funding the Washington state toxicology laboratory and the Washington state patrol breath test program.

(b) Upon a verified petition by the person assessed the fee, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay.

(c) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall assess the one hundred twenty-five dollar fee under (a) of this subsection. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee.

(2) The fee assessed under subsection (1) of this section shall be collected by the clerk of the court and distributed as follows:

(a) Forty percent shall be subject to distribution under RCW 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

(b) If the case involves a blood test by the state toxicology laboratory, the remainder of the fee shall be forwarded to the state treasurer for deposit in the death investigations account to be used solely for funding the state toxicology laboratory blood testing program.

(c) Otherwise, the remainder of the fee shall be forwarded to the state treasurer for deposit in the state patrol highway account to be used solely for funding the Washington state patrol breath test program.

## PART II - PROBATIONARY LICENSES

NEW SECTION. Sec. 8. A new section is added to chapter 46.61 RCW to read as follows:

(1) Upon notification of a conviction under RCW 46.61.502 or 46.61.504 for which the issuance of a probationary driver's license is required, or upon receipt of an abstract indicating a deferred prosecution has been granted under RCW 10.05.060, the department of licensing shall order the person to surrender his or her license. The department shall revoke the license of any person who fails to surrender it as required by this section.

(2) Upon receipt of the surrendered license, and following the expiration of any period of license suspension or revocation, or following receipt of a sworn statement under section 12 of this act that requires issuance of a probationary license, the department shall issue the person a probationary license if otherwise qualified. The probationary license shall be renewed on the same cycle as the person's regular license would have been renewed until five years after the date of its issuance.

(3) For each issue or reissue of a license under this section, the department may charge the fee authorized under RCW 46.20.311 for the reissuance of a license following a revocation for a violation of RCW 46.61.502 or 46.61.504.

(4) A probationary license shall enable the department and law enforcement personnel to determine that the person is on probationary status, including the period of that status, for a violation of RCW 46.61.502 or 46.61.504 or section 12 of this act. That fact that a person has been issued a probationary license shall not be a part of the person's record that is available to insurance companies.

## PART III - ASSESSMENT AND TREATMENT

NEW SECTION. Sec. 9. A new section is added to chapter 46.61 RCW to read as follows:

(1) A person subject to alcohol assessment and treatment under section 4, 5, or 6 of this act shall be required by the court to complete a course in an alcohol information school approved by the department of social and health services or to complete more intensive treatment in a program approved by the department of social and health services, as determined by the court. The court

shall notify the department of licensing whenever it orders a person to complete a course or treatment program under this section.

(2) A diagnostic evaluation and treatment recommendation shall be prepared under the direction of the court by an alcoholism agency approved by the department of social and health services or a qualified probation department approved by the department of social and health services. A copy of the report shall be forwarded to the department of licensing. Based on the diagnostic evaluation, the court shall determine whether the person shall be required to complete a course in an alcohol information school approved by the department of social and health services or more intensive treatment in a program approved by the department of social and health services.

(3) Standards for approval for alcohol treatment programs shall be prescribed by the department of social and health services. The department of social and health services shall periodically review the costs of alcohol information schools and treatment programs.

(4) Any agency that provides treatment ordered under section 4, 5, or 6 of this act, shall immediately report to the appropriate probation department where applicable, otherwise to the court, and to the department of licensing any noncompliance by a person with the conditions of his or her ordered treatment. The court shall notify the department of licensing and the department of social and health services of any failure by an agency to so report noncompliance. Any agency with knowledge of noncompliance that fails to so report shall be fined two hundred fifty dollars by the department of social and health services. Upon three such failures by an agency within one year, the department of social and health services shall revoke the agency's approval under this section.

(5) The department of licensing and the department of social and health services may adopt such rules as are necessary to carry out this section.

#### **PART IV - ADMINISTRATIVE REVOCATION**

NEW SECTION. Sec. 10. A new section is added to chapter 46.20 RCW to read as follows:

(1) Notwithstanding any other provision of this title, a person under the age of twenty-one may not drive, operate, or be in physical control of a motor vehicle while having alcohol in his or her system in a concentration of 0.02 or above.

(2) A person under the age of twenty-one who drives or is in physical control of a motor vehicle within this state is deemed to have given consent, subject to the relevant portions of RCW 46.61.506, to be detained long enough, and be transported if necessary, to take a test or tests of that person's blood or breath for the purpose of determining the alcohol concentration in his or her system.

(3) A test or tests may be administered at the direction of a law enforcement officer, who after stopping or detaining the driver, has reasonable grounds to

believe that the driver was driving or in actual physical control of a motor vehicle while having alcohol in his or her system.

(4) The law enforcement officer requesting the test or tests under subsection (2) of this section shall warn the person requested to submit to the test that a refusal to submit will result in that person's driver's license or driving privilege being revoked.

(5) If the person refuses testing, or submits to a test that discloses an alcohol concentration of 0.02 or more, the law enforcement officer shall:

(a) Serve the person notice in writing on behalf of the department of licensing of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive;

(b) Serve the person notice in writing on behalf of the department of licensing of the person's right to a hearing, specifying the steps required to obtain a hearing;

(c) Confiscate the person's Washington state license or permit to drive, if any, and issue a temporary license to replace any confiscated license or permit. The temporary license shall be valid for thirty days from the date of the traffic stop or until the suspension or revocation of the person's license or permit is sustained at a hearing as provided by subsection (7) of this section, whichever occurs first. No temporary license is valid to any greater degree than the license or permit it replaces;

(d) Notify the department of licensing of the traffic stop, and transmit to the department any confiscated license or permit and a sworn report stating:

(i) That the officer had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle within this state with alcohol in his or her system;

(ii) That pursuant to this section a test of the person's alcohol concentration was administered or that the person refused to be tested;

(iii) If administered, that the test indicated the person's alcohol concentration was 0.02 or higher; and

(iv) Any other information that the department may require by rule.

(6) Upon receipt of the sworn report of a law enforcement officer under subsection (5) of this section, the department shall suspend or revoke the driver's license or driving privilege beginning thirty days from the date of the traffic stop or beginning when the suspension, revocation, or denial is sustained at a hearing as provided by subsection (7) of this section. Within fifteen days after notice of a suspension or revocation has been given, the person may, in writing, request a formal hearing. If such a request is not made within the prescribed time the right to a hearing is waived. Upon receipt of such request, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state



while having alcohol in his or her 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 revocation of the person's driver's license or driving privilege, and, if the test or tests of the person's breath or blood was administered, whether the results indicated an alcohol concentration of 0.02 or more. The department shall order that the suspension or revocation of the person's driver's license or driving privilege either be rescinded or sustained. Any decision by the department suspending or revoking a person's driver's license or driving privilege 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 suspension or revocation of the person's driver's license or driving privilege is sustained after the hearing, the person may file a petition in the superior court of the county of arrest to review the final order of suspension or revocation by the department in the manner provided in RCW 46.20.334.

(7) The department shall suspend or revoke the driver's license or driving privilege of a person as required by this section as follows:

(a) In the case of a person who has refused a test or tests:

(i) For a first refusal within five years, revocation for one year;

(ii) For a second or subsequent refusal within five years, revocation or denial for two years.

(b) In the case of an incident where a person has submitted to a test or tests indicating an alcohol concentration of 0.02 or more:

(i) For a first incident within five years, suspension for ninety days;

(ii) For a second or subsequent incident within five years, revocation for one year or until the person reaches age twenty-one whichever occurs later.

(8) For purposes of this section, "alcohol concentration" means (a) grams of alcohol per two hundred ten liters of a person's breath, or (b) the percent by weight of alcohol in a person's blood.

**NEW SECTION.** Sec. 11. A new section is added to chapter 46.61 RCW to read as follows:

(1) Any person requested or signaled to stop by a law enforcement officer pursuant to section 10 of this act has a duty to stop.

(2) Whenever any person is stopped pursuant to section 10 of this act, the officer may detain that person for a reasonable period of time necessary to: Identify the person; check the status of the person's license, insurance identification card, and the vehicle's registration; and transport the person, if necessary, to and administer a test or tests to determine the alcohol concentration in the person's system.

(3) Any person requested to identify himself or herself to a law enforcement officer pursuant to an investigation under section 10 of this act has a duty to identify himself or herself, give his or her current address, and sign an

acknowledgement of receipt of the warning required by section 10(4) of this act and receipt of the notice and temporary license issued under section 10(5) of this act.

**NEW SECTION. Sec. 12.** A new section is added to chapter 46.61 RCW to read as follows:

(1) This section applies to any person arrested for a violation of RCW 46.61.502 or 46.61.504 who has an alcohol concentration of 0.10 or higher as shown by a test administered under RCW 46.20.308.

(2) The arresting officer or other law enforcement officer at whose direction the test was given shall:

(a) Serve the person notice in writing on behalf of the department of licensing of its intention to suspend, revoke, or deny the person's license, permit, or privilege to drive or to issue a probationary license;

(b) Serve the person notice in writing on behalf of the department of the person's right to a hearing, specifying the steps required to obtain a hearing;

(c) Confiscate the person's Washington state license or permit to drive, if any, and issue a temporary license to replace any confiscated license or permit. The temporary license shall be valid for thirty days from the date of arrest or until the suspension or revocation of the person's license or permit, or the issuance of a probationary license, is sustained at a hearing pursuant to subsection (5) of this section, whichever occurs first. If the person has not within the previous five years committed an offense for which he or she was granted a deferred prosecution under chapter 10.05 RCW, and within thirty days of the arrest the person petitions a court for a deferred prosecution on criminal charges arising out of the arrest, the court shall direct the department to extend the period of the temporary license by at least an additional thirty days but not more than an additional sixty days. If a deferred prosecution treatment plan is not recommended in the report made under RCW 10.05.050, or if treatment is rejected by the court, or if the person declines to accept an offered treatment plan, then the court shall immediately direct the department to cancel any period of extension of the temporary license. No temporary license is valid to any greater degree than the license or permit it replaces;

(d) Notify the department of the arrest, and transmit to the department any confiscated license or permit and a sworn report stating:

(i) That the officer had reasonable grounds to believe the arrested person was driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor or drug, or both;

(ii) That pursuant to RCW 46.20.308 a test of the person's alcohol concentration was administered;

(iii) That the test indicated that the person's alcohol concentration was 0.10 or higher; and

(iv) Any other information that the department may require by rule.

(3) Upon receipt of a sworn statement under subsection (2) of this section, the department shall suspend, revoke, or deny the person's license, permit, or

driving privilege, or shall issue a probationary license, effective beginning thirty days from the date of the arrest or beginning when the suspension, revocation, denial, or issuance is sustained at a hearing pursuant to subsection (5) of this section, whichever occurs first. The suspension, revocation, or denial, or issuance of a probationary license, shall be as follows:

(a) Upon receipt of a first sworn statement, issuance of a probationary license under section 8 of this act;

(b) Upon receipt of a second or subsequent statement indicating an arrest date that is within five years of the arrest date indicated by a previous statement, revocation for two years.

(4) A person receiving notification under subsection (2) of this section may, within five days after his or her arrest, request a hearing before the department under subsection (5) of this section. The request shall be in writing. The person shall pay a fee of one hundred dollars as part of the request. If the request is mailed, it must be postmarked within five days after the arrest.

(5) Upon timely receipt of a request and a one hundred dollar fee under subsection (4) of this section, the department shall afford the person an opportunity for a hearing. Except as otherwise provided in this section, the hearing is subject to and shall be scheduled and conducted in accordance with RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of arrest, except that all or part of the hearing may, at the discretion of the department, be conducted by telephone or other electronic means. The hearing shall be held within thirty days following the arrest, unless otherwise agreed to by the department and the person. The hearing shall cover the issues of:

(a) Whether the law enforcement officer had reasonable grounds to believe the person was driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor;

(b) Whether the test of the person's alcohol concentration was administered in accordance with RCW 46.20.308; and

(c) Whether the test indicated that the person's alcohol concentration was 0.10 or higher.

(6) The period of any suspension, revocation, or denial imposed under this section shall run consecutively to the period of any suspension, revocation, or denial imposed pursuant to a criminal conviction arising out of the same incident. A suspension, revocation, or denial imposed under this section shall be stayed if the person is accepted for deferred prosecution as provided in chapter 10.05 RCW for the incident upon which the suspension, revocation, or denial is based. If the deferred prosecution is terminated, the stay shall be lifted and the suspension, revocation, or denial reinstated. If the deferred prosecution is completed, the stay shall be lifted and the suspension, revocation, or denial canceled.

(7) If the suspension, revocation, denial, or issuance is sustained after such a hearing, the person whose license, privilege, or permit is suspended, revoked, or denied, or who has been issued a probationary license, has the right to file a

petition in the superior court of the county of arrest in the same manner as an appeal from a decision of a court of limited jurisdiction. The appellant must pay the costs associated with obtaining the record of the hearing before the hearing officer. A court may stay the suspension, revocation, or denial if it finds that the appellant is likely to prevail in the appeal and that without a stay the appellant will suffer irreparable injury. If the court stays the suspension, revocation, or denial, it may impose conditions on such stay.

(8) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been suspended, revoked, or denied, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

#### PART V - IMPLIED CONSENT

**Sec. 13.** RCW 46.20.308 and 1989 c 337 s 8 are each amended to read as follows:

(1) Any person who operates a motor vehicle within this state is deemed to have given consent, subject to the provisions of RCW 46.61.506, to a test or tests of his or her breath or blood for the purpose of determining the alcoholic content of his or her breath or blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor.

(2) The test or tests of breath shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor. However, in those instances where: (a) The person is incapable due to physical injury, physical incapacity, or other physical limitation, of providing a breath sample; or (b) as a result of a traffic accident the person is being treated for a medical condition in a hospital, clinic, doctor's office, or other similar facility in which a breath testing instrument is not present, a blood test shall be administered by a qualified person as provided in RCW 46.61.506(4). The officer shall inform the person of his or her right to refuse the breath or blood test, and of his or her right to have additional tests administered by any qualified person of his or her choosing as provided in RCW 46.61.506. The officer shall warn the driver that (a) his or her privilege to drive will be revoked or denied if he or she refuses to submit to the test, and (b) that his or her refusal to take the test may be used in a criminal trial.

(3) Except as provided in this section, the test administered shall be of the breath only. If an individual is unconscious or is under arrest for the crime of vehicular homicide as provided in RCW 46.61.520 or vehicular assault as provided in RCW 46.61.522, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person

has been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested.

(4) Any person who is dead, unconscious, or who is otherwise in a condition rendering him or her incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506, and the person shall be deemed to have received the warnings required under subsection (2) of this section.

(5) If, following his or her arrest and receipt of warnings under subsection (2) of this section, the person arrested refuses upon the request of a law enforcement officer to submit to a test or tests of his or her breath or blood, no test shall be given except as authorized under subsection (3) or (4) of this section.

(6) The department of licensing, upon the receipt of a sworn report of the law enforcement officer that the officer had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor and that the person had refused to submit to the test or tests upon the request of the law enforcement officer after being informed that refusal would result in the revocation of the person's privilege to drive, shall revoke the person's license or permit to drive or any nonresident operating privilege.

(7) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, the department shall immediately notify the person involved in writing by personal service or by certified mail of its decision and the grounds therefor, and of the person's right to a hearing, specifying the steps he or she must take to obtain a hearing. Within fifteen days after the notice has been given, the person may, in writing, request a formal hearing. The person shall pay a fee of one hundred dollars as part of the request. Upon receipt of such request and such fee, the department shall afford the person an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The hearing shall be conducted in the county of the arrest. For the purposes of this section, the scope of such hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle within this state while under the influence of intoxicating liquor, whether the person was placed under arrest, and whether the person refused to submit to the test or tests upon request of the officer after having been informed that such refusal would result in the revocation of the person's privilege to drive. The department shall order that the revocation either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as provided in this section or during the pendency of a subsequent appeal to superior court so long as there is no conviction for a moving violation

or no finding that the person has committed a traffic infraction that is a moving violation during pendency of the hearing and appeal.

(8) If the revocation is sustained after such a hearing, the person whose license, privilege, or permit is revoked has the right to file a petition in the superior court of the county of arrest to review the final order of revocation by the department in the manner provided in RCW 46.20.334.

(9) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he or she has a license.

**PART VI - DRIVING RECORDS**

**Sec. 14.** RCW 46.01.260 and 1984 c 241 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the director, in his or her discretion, may destroy applications for vehicle licenses, copies of vehicle licenses issued, applications for drivers' licenses, copies of issued drivers' licenses, certificates of title and registration or other documents, records or supporting papers on file in his or her office which have been microfilmed or photographed or are more than five years old. If the applications for vehicle licenses are renewal applications, the director may destroy such applications when the computer record thereof has been updated.

(2)(a) The director shall not, within ten years from the date of conviction, adjudication, or entry of deferred prosecution, destroy records of the following:

(i) Convictions or adjudications of the following offenses: RCW 46.61.502, 46.61.504, 46.61.520(1)(a), or 46.61.522(1)(b);

(ii) If the offense was originally charged as one of the offenses designated in (a)(i) of this subsection, convictions or adjudications of the following offenses: RCW 46.61.500 or 46.61.525, or any other violation that was originally charged as one of the offenses designated in (a)(i) of this subsection; or

(iii) Deferred prosecutions granted under RCW 10.05.120.

(b) For purposes of RCW 46.52.100 and 46.52.130, offenses subject to this subsection shall be considered "alcohol-related" offenses.

**Sec. 15.** RCW 46.52.100 and 1991 c 363 s 123 are each amended to read as follows:

Every district court, municipal court, and clerk of superior court shall keep or cause to be kept a record of every traffic complaint, traffic citation, notice of infraction, or other legal form of traffic charge deposited with or presented to the court or a traffic violations bureau, and shall keep a record of every official action by ~~((said))~~ the court or its traffic violations bureau in reference thereto, including but not limited to a record of every conviction, forfeiture of bail, judgment of acquittal, finding that a traffic infraction has been committed, dismissal of a notice of infraction, and the amount of fine, forfeiture, or penalty

resulting from every ((said)) traffic complaint, citation, or notice of infraction deposited with or presented to the district court, municipal court, superior court, or traffic violations bureau.

The Monday following the conviction, forfeiture of bail, or finding that a traffic infraction was committed for violation of any provisions of this chapter or other law regulating the operating of vehicles on highways, every ((said)) magistrate of the court or clerk of the court of record in which such conviction was had, bail was forfeited, or the finding made shall prepare and immediately forward to the director of licensing at Olympia an abstract of the record of ((said)) the court covering the case, which abstract must be certified by the person so required to prepare the same to be true and correct. Report need not be made of any finding involving the illegal parking or standing of a vehicle.

((Said)) The abstract must be made upon a form furnished by the director and shall include the name and address of the party charged, the number, if any, of the party's driver's or chauffeur's license, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment, whether the offense was an alcohol-related offense as defined in RCW 46.01.260(2), whether bail forfeited, whether the determination that a traffic infraction was committed was contested, and the amount of the fine, forfeiture, or penalty as the case may be.

Every court of record shall also forward a like report to the director upon the conviction of any person of manslaughter or other felony in the commission of which a vehicle was used.

The failure of any such judicial officer to comply with any of the requirements of this section shall constitute misconduct in office and shall be grounds for removal therefrom.

The director shall keep all abstracts received hereunder at the director's office in Olympia and the same shall be open to public inspection during reasonable business hours.

Venue in all district courts shall be before one of the two nearest district judges in incorporated cities and towns nearest to the point the violation allegedly occurred: PROVIDED, That in counties with populations of one hundred twenty-five thousand or more such cases may be tried in the county seat at the request of the defendant.

It shall be the duty of the officer, prosecuting attorney, or city attorney signing the charge or information in any case involving a charge of driving under the influence of intoxicating liquor or any drug immediately to make request to the director for an abstract of convictions and forfeitures which the director shall furnish.

**Sec. 16.** RCW 46.52.130 and 1991 c 243 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, 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, ~~((or))~~ 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~~((and))~~. 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~~((and))~~ named in the abstract or to an employer~~((s))~~ or prospective employer~~((s))~~ 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; 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)(a)(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 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 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 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.

Any violation of this section is a gross misdemeanor.

## PART VII - DEFERRED PROSECUTION

**Sec. 17.** RCW 10.05.060 and 1990 c 250 s 13 are each amended to read as follows:

If the report recommends treatment, the court shall examine the treatment plan. If it approves the plan and the petitioner agrees to comply with its terms and conditions and agrees to pay the cost thereof, if able to do so, or arrange for the treatment, an entry shall be made upon the person's court docket showing that the person has been accepted for deferred prosecution. A copy of the treatment plan shall be attached to the docket, which shall then be removed from the regular court dockets and filed in a special court deferred prosecution file. If the charge be one that an abstract of the docket showing the charge, the date of the violation for which the charge was made, and the date of petitioner's acceptance is required to be sent to the department of licensing, an abstract shall be sent, and the department of licensing shall make an entry of the charge and of the petitioner's acceptance for deferred prosecution on the department's driving record of the petitioner. The entry is not a conviction for purposes of Title 46 RCW. Upon receipt of the abstract of the docket, the department shall issue the petitioner a probationary license in accordance with section 8 of this act, and the petitioner's driver's license shall be on probationary status for five

years from the date of the violation that gave rise to the charge. The department shall maintain the record for ~~((five))~~ ten years from date of entry of the order granting deferred prosecution.

**Sec. 18.** RCW 10.05.090 and 1985 c 352 s 12 are each amended to read as follows:

If a petitioner, who has been accepted for a deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the petitioner's treatment plan, the facility, center, institution, or agency administering the treatment shall immediately report such breach to the court, the prosecutor, and the petitioner or petitioner's attorney of record, together with its recommendation. The court upon receiving such a report shall hold a hearing to determine whether the petitioner should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the petitioner's alleged failure to comply with the treatment plan and the petitioner shall have the right to present evidence on his or her own behalf. The court shall either order that the petitioner continue on the treatment plan or be removed from deferred prosecution. If removed from deferred prosecution, the court shall enter judgment pursuant to RCW 10.05.020 and, if the charge for which the deferred prosecution was granted was a misdemeanor or gross misdemeanor under Title 46 RCW, shall notify the department of licensing of the removal and entry of judgment.

**Sec. 19.** RCW 10.05.120 and 1985 c 352 s 15 are each amended to read as follows:

Upon proof of successful completion of the two-year treatment program, the court shall dismiss the charges pending against the petitioner.

~~((Five years from the date of the court's approval of a deferred prosecution program for an individual petitioner, those entries that remain in the department of licensing records relating to such petitioner shall be removed. A deferred prosecution may be considered for enhancement purposes when imposing mandatory penalties and suspensions under RCW 46.61.515 for subsequent offenses within a five-year period.))~~

**PART VIII - VEHICULAR HOMICIDE**

**Sec. 20.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)

- XII Assault 1 (RCW 9A.36.011)  
Assault of a Child 1 (RCW 9A.36.120)
- XI Rape 1 (RCW 9A.44.040)  
Rape of a Child 1 (RCW 9A.44.073)
- X Kidnapping 1 (RCW 9A.40.020)  
Rape 2 (RCW 9A.44.050)  
Rape of a Child 2 (RCW 9A.44.076)  
Child Molestation 1 (RCW 9A.44.083)  
Damaging building, etc., by explosion with  
threat to human being (RCW  
70.74.280(1))  
Over 18 and deliver heroin or narcotic from  
Schedule I or II to someone under 18  
(RCW 69.50.406)  
Leading Organized Crime (RCW  
9A.82.060(1)(a))
- IX Assault of a Child 2 (RCW 9A.36.130)  
Robbery 1 (RCW 9A.56.200)  
Manslaughter 1 (RCW 9A.32.060)  
Explosive devices prohibited (RCW  
70.74.180)  
Indecent Liberties (with forcible compulsion)  
(RCW 9A.44.100(1)(a))  
Endangering life and property by explosives  
with threat to human being (RCW  
70.74.270)  
Over 18 and deliver narcotic from Schedule  
III, IV, or V or a nonnarcotic from  
Schedule I-V to someone under 18 and  
3 years junior (RCW 69.50.406)  
Controlled Substance Homicide (RCW  
69.50.415)  
Sexual Exploitation (RCW 9.68A.040)  
Inciting Criminal Profiteering (RCW  
9A.82.060(1)(b))  
Vehicular Homicide, by being under the  
influence of intoxicating liquor or any  
drug (RCW 46.61.520)
- VIII Arson 1 (RCW 9A.48.020)  
Promoting Prostitution 1 (RCW 9A.88.070)  
Selling for profit (controlled or counterfeit)  
any controlled substance (RCW  
69.50.410)

Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))

Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))

Vehicular Homicide, (~~by being under the influence of intoxicating liquor or any drug or~~) by the operation of any vehicle in a reckless manner (RCW 46.61.520)

- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))

- VI Bribery (RCW 9A.68.010)
- Manslaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))
- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))

- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- V Criminal Mistreatment 1 (RCW 9A.42.020)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)
- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
- Malicious Harassment (RCW 9A.36.080)
- Threats to Bomb (RCW 9.61.160)
- Willful Failure to Return from Furlough (RCW 72.66.060)
- Hit and Run — Injury Accident (RCW 46.52.020(4))
- Vehicular Assault (RCW 46.61.522)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))
- Influencing Outcome of Sporting Event (RCW 9A.82.070)
- Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
- Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III Criminal mistreatment 2 (RCW 9A.42.030)
- Extortion 2 (RCW 9A.56.130)
- Unlawful Imprisonment (RCW 9A.40.040)
- Assault 3 (RCW 9A.36.031)
- Assault of a Child 3 (RCW 9A.36.140)
- Custodial Assault (RCW 9A.36.100)
- Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
- Harassment (RCW 9A.46.020)
- Promoting Prostitution 2 (RCW 9A.88.080)
- Willful Failure to Return from Work Release (RCW 72.65.070)
- Burglary 2 (RCW 9A.52.030)
- Introducing Contraband 2 (RCW 9A.76.150)
- Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
- Patronizing a Juvenile Prostitute (RCW 9.68A.100)
- Escape 2 (RCW 9A.76.120)
- Perjury 2 (RCW 9A.72.030)
- Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))
- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))

- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- Reckless Endangerment 1 (RCW 9A.36.045)
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)
- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

**PART IX - INTERLOCK**

**Sec. 21.** RCW 46.20.710 and 1987 c 247 s 1 are each amended to read as follows:

The legislature finds and declares:

(1) There is a need to reduce the incidence of drivers on the highways and roads of this state who, because of their use, consumption, or possession of alcohol, pose a danger to the health and safety of other drivers;

(2) One method of dealing with the problem of drinking drivers is to discourage the use of motor vehicles by persons who possess or have consumed alcoholic beverages;

(3) The installation of an ignition interlock breath alcohol device or other biological or technical device will provide a means of deterring the use of motor vehicles by persons who have consumed alcoholic beverages;

(4) Ignition interlock and other biological and technical devices are designed to supplement other methods of punishment that prevent drivers from using a motor vehicle after using, possessing, or consuming alcohol;

(5) It is economically and technically feasible to have an ignition interlock or other biological or technical device installed in a motor vehicle in such a manner that the vehicle will not start if the operator has recently consumed alcohol.

**Sec. 22.** RCW 46.20.720 and 1987 c 247 s 2 are each amended to read as follows:

The court may order any person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle to drive only a motor vehicle equipped with a functioning ignition interlock or other biological or technical device, and the restriction shall be for a period of not less than six months.

The court shall establish a specific calibration setting at which the ignition interlock or other biological or technical device will prevent the motor vehicle from being started and the period of time that the person shall be subject to the restriction.

For purposes of this section, "convicted" means being found guilty of an offense or being placed on a deferred prosecution program under chapter 10.05 RCW.

**Sec. 23.** RCW 46.20.730 and 1987 c 247 s 3 are each amended to read as follows:



For the purposes of RCW 46.20.720, 46.20.740, and 46.20.750, "ignition interlock device" means breath alcohol analyzed ignition equipment, certified by the state commission on equipment, designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage, and "other biological or technical device" means any device meeting the standards of the national highway traffic safety administration or the state commission on equipment, designed to prevent the operation of a motor vehicle by a person who is impaired by alcohol or drugs. The commission shall by rule provide standards for the certification, installation, repair, and removal of the devices.

**Sec. 24.** RCW 46.20.740 and 1987 c 247 s 4 are each amended to read as follows:

The department shall attach or imprint a notation on the driver's license of any person restricted under RCW 46.20.720 stating that the person may operate only a motor vehicle equipped with an ignition interlock or other biological or technical device.

**Sec. 25.** RCW 46.20.750 and 1987 c 247 s 5 are each amended to read as follows:

A person who knowingly assists another person who is restricted to the use of an ignition interlock or other biological or technical device to start and operate that vehicle in violation of a court order is guilty of a gross misdemeanor.

The provisions of this section do not apply if the starting of a motor vehicle, or the request to start a motor vehicle, equipped with an ignition interlock or other biological or technical device is done for the purpose of safety or mechanical repair of the device or the vehicle and the person subject to the court order does not operate the vehicle.

#### PART X - MISCELLANEOUS

**Sec. 26.** RCW 46.61.506 and 1987 c 373 s 4 are each amended to read as follows:

(1) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving or in actual physical control of a vehicle while under the influence of intoxicating liquor or any drug, if the ~~((amount of alcohol in the person's blood or breath at the time alleged as shown by analysis of his blood or breath is less than 0.10 percent by weight of alcohol in his blood or 0.10 grams of alcohol per two hundred ten liters of the person's breath))~~ person's alcohol concentration is less than 0.10, it is evidence that may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor or any drug.

(2) The breath analysis shall be based upon grams of alcohol per two hundred ten liters of breath. The foregoing provisions of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor or any drug.

(3) Analysis of the person's blood or breath to be considered valid under the provisions of this section or RCW 46.61.502 or 46.61.504 shall have been performed according to methods approved by the state toxicologist and by an individual possessing a valid permit issued by the state toxicologist for this purpose. The state toxicologist is directed to approve satisfactory techniques or methods, to supervise the examination of individuals to ascertain their qualifications and competence to conduct such analyses, and to issue permits which shall be subject to termination or revocation at the discretion of the state toxicologist.

(4) When a blood test is administered under the provisions of RCW 46.20.308, the withdrawal of blood for the purpose of determining its alcoholic content may be performed only by a physician, a registered nurse, or a qualified technician. This limitation shall not apply to the taking of breath specimens.

(5) The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer one or more tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

(6) Upon the request of the person who shall submit to a test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to him or her or his or her attorney.

**Sec. 27.** RCW 46.20.311 and 1993 c 501 s 5 are each amended to read as follows:

(1) The department shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a fixed period of more than one year, except as specifically permitted under RCW 46.20.342 or ~~((46.61.515))~~ other provision of law. Except for a suspension under RCW 46.20.289 and 46.20.291(5), whenever the license or driving privilege of any person is suspended by reason of a conviction, a finding that a traffic infraction has been committed, pursuant to chapter 46.29 RCW, or pursuant to RCW 46.20.291, the suspension shall remain in effect until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. The department shall not issue to the person a new, duplicate, or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of RCW 46.61.502 or 46.61.504, the reissue fee shall be fifty dollars.

(2) Any person whose license or privilege to drive a motor vehicle on the public highways has been revoked, unless the revocation was for a cause which has been removed, is not entitled to have the license or privilege renewed or restored until: (a) After the expiration of one year from the date the license or privilege to drive was revoked; (b) after the expiration of the applicable revocation period provided by RCW ~~((46.61.515(3) (b) or (e)))~~ 46.20.308 or section 5, 6, or 12 of this act; (c) after the expiration of two years for persons convicted of vehicular homicide; or (d) ~~((after the expiration of one year in cases~~

~~of revocation for the first refusal within five years to submit to a chemical test under RCW 46.20.308; (e) after the expiration of two years in cases of revocation for the second or subsequent refusal within five years to submit to a chemical test under RCW 46.20.308; or (f))~~ after the expiration of the applicable revocation period provided by RCW 46.20.265. After the expiration of the appropriate period, the person may make application for a new license as provided by law together with a reissue fee in the amount of twenty dollars, but if the revocation is the result of a violation of RCW 46.20.308, 46.61.502, or 46.61.504 or is the result of administrative action under section 12 of this act, the reissue fee shall be fifty dollars. Except for a revocation under RCW 46.20.265, the department shall not then issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant the privilege of driving a motor vehicle on the public highways, and until the person gives and thereafter maintains proof of financial responsibility for the future as provided in chapter 46.29 RCW. For a revocation under RCW 46.20.265, the department shall not issue a new license unless it is satisfied after investigation of the driving ability of the person that it will be safe to grant that person the privilege of driving a motor vehicle on the public highways.

(3) Whenever the driver's license of any person is suspended pursuant to Article IV of the nonresident violators compact or RCW 46.23.020 or 46.20.289 or 46.20.291(5), the department shall not issue to the person any new or renewal license until the person pays a reissue fee of twenty dollars. If the suspension is the result of a violation of the laws of this or any other state, province, or other jurisdiction involving (a) the operation or physical control of a motor vehicle upon the public highways while under the influence of intoxicating liquor or drugs, or (b) the refusal to submit to a chemical test of the driver's blood alcohol content, the reissue fee shall be fifty dollars.

**Sec. 28.** RCW 46.04.580 and 1990 c 250 s 22 are each amended to read as follows:

"Suspend," in all its forms and unless a different period is specified, means invalidation for any period less than one calendar year and thereafter until reinstatement. ~~((However, under RCW 46.61.515 the invalidation may last for more than one calendar year.))~~

**Sec. 29.** RCW 46.20.391 and 1985 c 407 s 5 are each amended to read as follows:

(1) Any person licensed under this chapter who is convicted of an offense relating to motor vehicles for which suspension or revocation of the driver's license is mandatory, other than vehicular homicide or vehicular assault, may submit to the department an application for an occupational driver's license. The department, upon receipt of the prescribed fee and upon determining that the petitioner is engaged in an occupation or trade that makes it essential that the petitioner operate a motor vehicle, may issue an occupational driver's license and may set definite restrictions as provided in RCW 46.20.394. No person may

petition for, and the department shall not issue, an occupational driver's license that is effective during the first thirty days of any suspension or revocation imposed ~~((under RCW 46.61.515))~~ for a violation of RCW 46.61.502 or 46.61.504. No person may petition for, and the department shall not issue, an occupational driver's license if the person is ineligible for such a license under section 5 or 6 of this act. A person aggrieved by the decision of the department on the application for an occupational driver's license may request a hearing as provided by rule of the department.

(2) An applicant for an occupational driver's license is eligible to receive such license only if:

(a) Within one year immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not ((been convicted)) committed of any offense relating to motor vehicles for which suspension or revocation of a driver's license is mandatory; and

(b) Within five years immediately preceding the date of the offense that gave rise to the present conviction, the applicant has not ((been convicted of)) committed any of the following offenses: (i) Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor ((under RCW 46.61.502 or 46.61.504, of)); (ii) vehicular homicide under RCW 46.61.520((, or of)); or (iii) vehicular assault under RCW 46.61.522; and

(c) The applicant is engaged in an occupation or trade that makes it essential that he or she operate a motor vehicle; and

(d) The applicant files satisfactory proof of financial responsibility pursuant to chapter 46.29 RCW.

(3) The director shall cancel an occupational driver's license upon receipt of notice that the holder thereof has been convicted of operating a motor vehicle in violation of its restrictions, or of an offense that pursuant to chapter 46.20 RCW would warrant suspension or revocation of a regular driver's license. The cancellation is effective as of the date of the conviction, and continues with the same force and effect as any suspension or revocation under this title.

**Sec. 30.** RCW 5.40.060 and 1987 c 212 s 1001 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, it is a complete defense to an action for damages for personal injury or wrongful death that the person injured or killed was under the influence of intoxicating liquor or any drug at the time of the occurrence causing the injury or death and that such condition was a proximate cause of the injury or death and the trier of fact finds such person to have been more than fifty percent at fault. The standard for determining whether a person was under the influence of intoxicating liquor or drugs shall be the same standard established for criminal convictions under RCW 46.61.502, and evidence that a person was under the influence of intoxicating liquor or drugs under the standard established by RCW 46.61.502 shall be conclusive proof that such person was under the influence of intoxicating liquor or drugs.

(2) In an action for damages for personal injury or wrongful death that is brought against the driver of a motor vehicle who was under the influence of intoxicating liquor or any drug at the time of the occurrence causing the injury or death and whose condition was a proximate cause of the injury or death, subsection (1) of this section does not create a defense against the action notwithstanding that the person injured or killed was also under the influence so long as such person's condition was not a proximate cause of the occurrence causing the injury or death.

NEW SECTION. Sec. 31. Section 30 of this act is remedial in nature and shall apply retroactively.

Sec. 32. RCW 46.55.113 and 1987 c 311 s 10 are each amended to read as follows:

Whenever the driver of a vehicle is arrested for a violation of RCW 46.61.502 or 46.61.504, the arresting officer may take custody of the vehicle and provide for its prompt removal to a place of safety. In addition, a police officer may take custody of a vehicle and provide for its prompt removal to a place of safety under any of the following circumstances:

(1) Whenever a police officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of the vehicle or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway;

(2) Whenever a police officer finds a vehicle unattended upon a highway where the vehicle constitutes an obstruction to traffic or jeopardizes public safety;

(3) Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable(~~(, or too intoxicated, to decide)~~) of deciding upon steps to be taken to protect his or her property;

(4) Whenever the driver of a vehicle is arrested and taken into custody by a police officer(~~(, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property))~~);

(5) Whenever a police officer discovers a vehicle that the officer determines to be a stolen vehicle;

(6) Whenever a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property.

Nothing in this section may derogate from the powers of police officers under the common law. For the purposes of this section, a place of safety may include the business location of a registered tow truck operator.

## PART XI - TECHNICAL

**Sec. 33.** RCW 46.63.020 and 1993 c 501 s 8 are each amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

(1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;

(2) RCW 46.09.130 relating to operation of nonhighway vehicles;

(3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;

(4) RCW 46.10.130 relating to the operation of snowmobiles;

(5) Chapter 46.12 RCW relating to certificates of ownership and registration;

(6) RCW 46.16.010 relating to initial registration of motor vehicles;

(7) RCW 46.16.011 relating to permitting unauthorized persons to drive;

(8) RCW 46.16.160 relating to vehicle trip permits;

(9) RCW 46.16.381 (6) or (~~(8)~~) (9) relating to unauthorized use or acquisition of a special placard or license plate for disabled persons' parking;

(10) RCW 46.20.021 relating to driving without a valid driver's license;

(11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;

(12) RCW 46.20.342 relating to driving with a suspended or revoked license or status;

(13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;

(14) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;

(15) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;

(16) RCW 46.25.170 relating to commercial driver's licenses;

(17) Chapter 46.29 RCW relating to financial responsibility;

(18) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(19) RCW 46.37.435 relating to wrongful installation of suncreening material;

(20) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

(21) RCW 46.48.175 relating to the transportation of dangerous articles;

(22) RCW 46.52.010 relating to duty on striking an unattended car or other property;

- (23) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;
- (24) RCW 46.52.090 relating to reports by repairmen, storagemen, and appraisers;
- (25) RCW 46.52.100 relating to driving under the influence of liquor or drugs;
- (26) RCW 46.52.130 relating to confidentiality of the driving record to be furnished to an insurance company, an employer, and an alcohol/drug assessment or treatment agency;
- (27) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;
- (28) RCW 46.55.035 relating to prohibited practices by tow truck operators;
- (29) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;
- (30) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;
- (31) RCW 46.61.022 relating to failure to stop and give identification to an officer;
- (32) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;
- (33) RCW 46.61.500 relating to reckless driving;
- (34) RCW 46.61.502 and 46.61.504 and sections 4, 5, and 6 of this act relating to persons under the influence of intoxicating liquor or drugs;
- (35) RCW 46.61.520 relating to vehicular homicide by motor vehicle;
- (36) RCW 46.61.522 relating to vehicular assault;
- (37) RCW 46.61.525 relating to negligent driving;
- (38) RCW 46.61.530 relating to racing of vehicles on highways;
- (39) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;
- (40) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;
- (41) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;
- (42) Chapter 46.65 RCW relating to habitual traffic offenders;
- (43) Chapter 46.70 RCW relating to unfair motor vehicle business practices, except where that chapter provides for the assessment of monetary penalties of a civil nature;
- (44) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;
- (45) Chapter 46.80 RCW relating to motor vehicle wreckers;
- (46) Chapter 46.82 RCW relating to driver's training schools;
- (47) RCW 46.87.260 relating to alteration or forgery of a cab card, letter of authority, or other temporary authority issued under chapter 46.87 RCW;

(48) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

**Sec. 34.** RCW 3.62.090 and 1986 c 98 s 4 are each amended to read as follows:

(1) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions, by all courts organized under Title 3 or 35 RCW a public safety and education assessment equal to sixty percent of such fines, forfeitures, or penalties, which shall be remitted as provided in chapters 3.46, 3.50, 3.62, and 35.20 RCW. The assessment required by this section shall not be suspended or waived by the court.

(2) There shall be assessed and collected in addition to any fines, forfeitures, or penalties assessed, other than for parking infractions and for fines levied under ~~((RCW 46.61.515))~~ sections 4, 5, and 6 of this act, and in addition to the public safety and education assessment required under subsection (1) of this section, by all courts organized under Title 3 or 35 RCW, an additional public safety and education assessment equal to fifty percent of the public safety and education assessment required under subsection (1) of this section, which shall be remitted to the state treasurer and deposited as provided in RCW 43.08.250. The additional assessment required by this subsection shall not be suspended or waived by the court.

**\*Sec. 35.** RCW 10.05.120 and 1985 c 352 s 15 are each amended to read as follows:

*Upon proof of successful completion of the two-year treatment program, the court shall dismiss the charges pending against the petitioner.*

*Five years from the date of the court's approval of a deferred prosecution program for an individual petitioner, those entries that remain in the department of licensing records relating to such petitioner shall be removed. A deferred prosecution may be considered for enhancement purposes when imposing mandatory penalties and suspensions under ~~((RCW 46.61.515))~~ sections 4, 5, and 6 of this act for subsequent offenses within a five-year period.*

\*Sec. 35 was vetoed, see message at end of chapter.

**Sec. 36.** RCW 35.21.165 and 1983 c 165 s 40 are each amended to read as follows:

Except as limited by the maximum penalties authorized by law, no city or town may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in ~~((RCW 46.61.515))~~ sections 4, 5, and 6 of this act.

**Sec. 37.** RCW 36.32.127 and 1983 c 165 s 41 are each amended to read as follows:



No county may establish a penalty for an act that constitutes the crime of driving while under the influence of intoxicating liquor or any drug, as provided for in RCW 46.61.502, or the crime of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug, as provided in RCW 46.61.504, that is less than the penalties prescribed for those crimes in ~~((RCW 46.61.515))~~ sections 4, 5, and 6 of this act.

**Sec. 38.** RCW 46.04.480 and 1988 c 148 s 8 are each amended to read as follows:

"Revoke," in all its forms, means the invalidation for a period of one calendar year and thereafter until reissue: PROVIDED, That under the provisions of RCW 46.20.285, 46.20.311, 46.20.265, ~~((or 46.61.515))~~ section 4, 5, or 6 of this act, and chapter 46.65 RCW the invalidation may last for a period other than one calendar year.

**Sec. 39.** RCW 46.61.5151 and 1983 c 165 s 33 are each amended to read as follows:

A sentencing court may allow persons convicted of violating RCW 46.61.502 or 46.61.504 to fulfill the terms of the sentence provided in ~~((RCW 46.61.515 (1) or (2)))~~ section 4, 5, or 6 of this act in nonconsecutive or intermittent time periods. However, ~~((the first twenty-four hours of any sentence under RCW 46.61.515(1) and the first forty-eight hours of any sentence under RCW 46.61.515(2)))~~ any mandatory minimum sentence under section 4, 5, or 6 of this act shall be served consecutively unless suspended or deferred as otherwise provided by law.

**Sec. 40.** RCW 46.61.5152 and 1992 c 64 s 1 are each amended to read as follows:

In addition to penalties that may be imposed under ~~((RCW 46.61.515))~~ section 4, 5, or 6 of this act, the court may require a person who is convicted of a violation of RCW 46.61.502 or 46.61.504 or who enters a deferred prosecution program under RCW 10.05.020 based on a violation of RCW 46.61.502 or 46.61.504, to attend an educational program focusing on the emotional, physical, and financial suffering of victims who were injured by persons convicted of driving while under the influence of intoxicants.

**NEW SECTION.** **Sec. 41.** The sum of one million five hundred sixty-three thousand five hundred eighty-nine dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1995, from the highway safety fund to the department of licensing for the purposes of implementing this act.

**NEW SECTION.** **Sec. 42.** The following acts or parts of acts are each repealed:

(1) RCW 46.61.515 and 1993 c 501 s 7, 1993 c 239 s 1, 1985 c 352 s 1, 1984 c 258 s 328, 1983 c 165 s 21, 1983 c 150 s 1, 1982 1st ex.s. c 47 s 27,

1979 ex.s. c 176 s 6, 1977 ex.s. c 3 s 3, 1975 1st ex.s. c 287 s 2, 1974 ex.s. c 130 s 1, 1971 ex.s. c 284 s 1, 1967 c 32 s 68, & 1965 ex.s. c 155 s 62; and (2) 1993 c 239 s 3 (uncodified).

NEW SECTION. **Sec. 43.** This act shall be known as the "1994 Omnibus Drunk Driving Act."

NEW SECTION. **Sec. 44.** Section 7 of this act shall expire June 30, 1995.

NEW SECTION. **Sec. 45.** Part headings and the table of contents as used in this act do not constitute any part of the law.

NEW SECTION. **Sec. 46.** This act shall take effect July 1, 1994.

Passed the Senate March 10, 1994.

Passed the House March 10, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to section 35, Substitute Senate Bill No. 6047 entitled:

"AN ACT relating to crimes involving alcohol, drugs, or mental problems;"

Section 35 of Substitute Senate Bill No. 6047 is in conflict with section 19 of the same bill and contradicts the intent of the bill to maintain records for deferred prosecution for ten years.

With the exception of section 35, Substitute Senate Bill No. 6047 is approved."

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## CHAPTER 276

[Second Substitute Senate Bill 6053]

### COUNTY ASSESSORS—PROPERTY VALUATION ASSISTANCE— ASSESSORS' ASSISTANCE FUND

AN ACT Relating to county assessors; amending RCW 36.21.011; adding a new section to chapter 36.21 RCW; creating new sections; and providing an effective date.

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

**Sec. 1.** RCW 36.21.011 and 1973 1st ex.s. c 11 s 1 are each amended to read as follows:

(1) Any assessor who deems it necessary to enable ~~((him))~~ the assessor to complete the listing and the valuation of the property of ~~((his))~~ the county within the time prescribed by law, ~~((+))~~ (a) may appoint one or more well qualified persons to act as ~~((his))~~ assistants or deputies who shall not engage in the private practice of appraising within the county in which he or she is employed without the written permission of the county assessor filed with the county auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, be authorized to perform all the duties enjoined upon, vested in or imposed upon assessors, and ~~((2))~~ (b) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

(2) To assist each assessor in obtaining adequate and well qualified assistants or deputies, the state department of personnel, after consultation with the Washington state association of county assessors, the Washington state association of counties, and the department of revenue, shall establish ~~((by July 1, 1967,))~~ and ~~((shall thereafter))~~ maintain~~((τ))~~ a classification and salary plan for those employees of an assessor who act as appraisers. The plan shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

~~((If an assessor intends to put such plan into effect in his county, he))~~ (3) An assessor may request a committee be formed to determine the level and duration of funding necessary to complete the listing and the valuation of the property of the county within the time prescribed by law and shall inform the department of revenue and the ((board of)) county ((commissioners)) legislative authority and county executive, if any, of this ((intent)) request in writing. ((The department of revenue and the board may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the board, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the county assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the board of county commissioners. The committee provided for herein may be formed only once in a period of four calendar years.

~~After such determination, the assessor may provide, in each of his four next succeeding annual budget estimates, for as many positions as are established in such determination. Each board of county commissioners to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan.))~~ The department shall reply to the assessor in writing, with a copy provided to the county legislative authority and county executive, if any, indicating whether the department will participate in forming a committee to study the assessor's request. Thereafter, in its discretion, the department may designate a representative who, together with a designated member of the county legislative authority and the assessor, shall form the committee.

(4) The committee shall meet for the purpose of reviewing the assessor's request and make unanimous findings and recommendations to determine the level of funding and the duration of funding with respect to appraisers, support staff, computer equipment and software, and other resources, necessary for the assessor to adequately maintain and complete the county revaluation program and list and value personal property within the time required by law and to place new construction on the assessment rolls on a regular annual basis.

(5) Within sixty days of the first meeting of the committee, or such additional time as may be determined by the committee, the representative of the department of revenue shall report the committee's unanimous findings and recommendations to the director of the department of revenue or his or her designee. The representative of the department shall also make recommendations regarding any unresolved issues, which shall be decided by the director or his or her designee.

(6) The department shall prepare a contract in accordance with the findings and recommendations of the committee and the decisions of the director or his or her designee to be signed by the assessor and the county legislative authority. The contract shall include the following provisions:

(a) A specified level of funding for a specified number of years to be provided on an annual basis to the assessor's office by the county legislative authority;

(b) Assurance by the assessor that the funds will be used in accordance with the findings and recommendations of the committee and the decisions of the director or his or her designee so as to adequately maintain and complete the county revaluation program within the time required by law and to place new construction on the assessment rolls on a regular annual basis;

(c) A procedure for the county legislative authority to request evaluation by the department of revenue of the assessor's performance under the terms of the contract; and

(d) A provision that the county legislative authority is not obligated to continue to provide the specified funding level if the evaluation by the department of revenue concludes that the assessor is not meeting the contract requirements.

(7) The county legislative authority may request a loan under the provisions of section 2 of this act to assist in carrying out the provisions of the contract described in subsection (6) of this section. If insufficient funding exists to make the loan, the county making the request may delay providing the funding level specified in the contract until such a loan can be made available.

NEW SECTION. Sec. 2. A new section is added to chapter 36.21 RCW to read as follows:

(1) The assessors' assistance fund is created in the custody of the state treasurer. The fund may be used only for making loans to counties in accordance with the provisions of RCW 36.21.011. All receipts from repayment to the fund and interest on the loans from the fund shall be deposited into the fund. Only the director of the department of revenue or the director's designee may authorize expenditures from the fund. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures.

(2) All loans made from the assessors' assistance fund shall be made subject to the availability of funds and repaid from any fund under the control of the county legislative authority by the county receiving the loan in accordance with

a schedule established by the department of revenue in consultation with the county legislative authority. Interest on the outstanding balance of the loan shall accrue at the rate specified in RCW 84.69.100 in effect on the date of the loan and continue at that rate until paid in full.

**NEW SECTION. Sec. 3.** If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1994, in the omnibus appropriations act, this act shall be null and void.

**NEW SECTION. Sec. 4.** The department of revenue shall adopt rules consistent with chapter 34.05 RCW and the provisions of this chapter as necessary or desirable to permit the effective administration of this chapter.

**NEW SECTION. Sec. 5.** This act shall take effect July 1, 1994.

Passed the Senate March 6, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 277

[Substitute Senate Bill 6069]

### COUNTIES, CITIES, AND TOWNS—NONVOTER-APPROVED INDEBTEDNESS LIMITATION

AN ACT Relating to nonvoter-approved municipal indebtedness; and amending RCW 39.36.020.

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

**Sec. 1.** RCW 39.36.020 and 1993 c 240 s 12 are each amended to read as follows:

(1) Except as otherwise expressly provided by law or in subsections (2), (3) and (4) of this section, no taxing district shall for any purpose become indebted in any manner to an amount exceeding three-eighths of one percent of the value of the taxable property in such taxing district without the assent of three-fifths of the voters therein voting at an election to be held for that purpose, nor in cases requiring such assent shall the total indebtedness incurred at any time exceed one and one-fourth percent on the value of the taxable property therein.

(2) ~~((Counties, cities, towns, and))~~ (a)(i) Public hospital districts are limited to an indebtedness amount not exceeding three-fourths of one percent of the value of the taxable property in such ~~((counties, cities, towns, or))~~ public hospital districts without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(ii) Counties, cities, and towns are limited to an indebtedness amount not exceeding one and one-half percent of the value of the taxable property in such counties, cities, or towns without the assent of three-fifths of the voters therein voting at an election held for that purpose.

(b) In cases requiring such assent counties, cities, towns, and public hospital districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein. However, any county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW may become indebted to a larger amount for its authorized metropolitan functions, as provided under chapter 35.58 RCW, but not exceeding an additional three-fourths of one percent of the value of the taxable property in the county without the assent of three-fifths of the voters therein voting at an election held for that purpose, and in cases requiring such assent not exceeding an additional two and one-half percent of the value of the taxable property in the county.

(3) School districts are limited to an indebtedness amount not exceeding three-eighths of one percent of the value of the taxable property in such district without the assent of three-fifths of the voters therein voting at an election held for that purpose. In cases requiring such assent school districts are limited to a total indebtedness of two and one-half percent of the value of the taxable property therein.

(4) No part of the indebtedness allowed in this chapter shall be incurred for any purpose other than strictly county, city, town, school district, township, port district, metropolitan park district, or other municipal purposes: PROVIDED, That a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional, determined as herein provided, for supplying such city or town with water, artificial light, and sewers, when the works for supplying such water, light, and sewers shall be owned and controlled by the city or town; and a city or town, with such assent, may become indebted to a larger amount, but not exceeding two and one-half percent additional for acquiring or developing open space and park facilities: PROVIDED FURTHER, That any school district may become indebted to a larger amount but not exceeding two and one-half percent additional for capital outlays.

(5) Such indebtedness may be authorized in any total amount in one or more propositions and the amount of such authorization may exceed the amount of indebtedness which could then lawfully be incurred. Such indebtedness may be incurred in one or more series of bonds from time to time out of such authorization but at no time shall the total general indebtedness of any taxing district exceed the above limitation.

The term "value of the taxable property" as used in this section shall have the meaning set forth in RCW 39.36.015.

Passed the Senate February 8, 1994.

Passed the House March 1, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 278

[Engrossed Substitute Senate Bill 6071]

## PORT DISTRICTS—INDUSTRIAL DEVELOPMENT LEVIES

AN ACT Relating to industrial development levies; and amending RCW 53.36.100.

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

**Sec. 1.** RCW 53.36.100 and 1982 1st ex.s. c 3 s 1 are each amended to read as follows:

(1) A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may thereafter raise revenue, for ~~((twelve))~~ six years only, and a second six years if the procedures are followed under subsection (2) of this section, in addition to all other revenues now authorized by law, by an annual levy not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district. In addition, if voters approve a ballot proposition authorizing additional levies by a simple majority vote, a port district located in a county bordering on the Pacific Ocean having adopted a comprehensive scheme of harbor improvements and industrial developments may impose these levies for a third six-year period. Said ~~((levy))~~ levies shall be used exclusively for the exercise of the powers granted to port districts under chapter 53.25 RCW except as provided in RCW 53.36.110. The levy of such taxes is herein authorized notwithstanding the provisions of RCW 84.52.050 and 84.52.043. The revenues derived from levies made under RCW 53.36.100 and 53.36.110 not expended in the year in which the levies are made may be paid into a fund for future use in carrying out the powers granted under chapter 53.25 RCW, which fund may be accumulated and carried over from year to year, with the right to continue to levy the taxes provided for in RCW 53.36.100 and 53.36.110 for the purposes herein authorized.

(2) If a port district intends to levy a tax under this section for one or more years after the first six years ~~((authorized in this section))~~ these levies were imposed, the port commission shall publish notice of this intention, in one or more newspapers of general circulation within the district, by June 1 of the year in which the first levy of the seventh through twelfth year period is to be made. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the port district for the office of the governor at the last preceding gubernatorial election, the county auditor shall canvass the signatures in the same manner as prescribed in RCW 29.79.200 and certify their sufficiency to the port commission within two weeks. The proposition to make these levies in the seventh through twelfth year period shall be submitted to the voters of the port district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29.13.070. The levies may be made in the seventh through twelfth year period only if approved by a majority of the voters of the port district voting on the proposition.

Passed the Senate March 8, 1994.  
Passed the House March 3, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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**CHAPTER 279**

[Senate Bill 6074]

**EXCELLENCE IN EDUCATION AWARD PROGRAM—REVISIONS**

AN ACT Relating to the Washington award for excellence in education program; amending RCW 28A.625.060 and 28A.625.065; reenacting and amending RCW 28A.625.041; adding a new section to chapter 28A.625 RCW; adding a new section to chapter 28B.80 RCW; providing an effective date; and declaring an emergency.

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

**Sec. 1.** RCW 28A.625.041 and 1992 c 83 s 1 and 1992 c 50 s 1 are each reenacted and amended to read as follows:

(1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to certificates under subsection (1) of this section, awards for teachers, classified employees, and principals or administrators shall include one of the following:

(a) Except as provided under RCW 28B.80.255, an academic grant which shall be used to take courses at a state institution of higher education. The academic grant shall provide reimbursement to the recipient for actual costs incurred for tuition and fees for up to forty-five quarter credit hours or thirty semester credit hours at a rate of reimbursement per credit hour not to exceed the resident graduate, part-time cost per credit hour at the University of Washington in the year the recipient takes the credits. In addition, a stipend not to exceed one thousand dollars shall be provided for costs incurred in taking courses covered by the academic grant beginning with 1992 recipients, if funds are appropriated for the stipends in the omnibus appropriations act. This stipend shall be provided as reimbursement for actual costs incurred. The academic grant shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(c) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to certificates under subsection (1) of this section, the award for the superintendent shall include one of the following:



(a) A recognition stipend not to exceed one thousand dollars. The recognition stipend shall not be considered compensation for the purposes of RCW 28A.400.200; or

(b) An educational grant not to exceed one thousand dollars. The educational grant shall be awarded under RCW 28A.625.060 and shall not be considered compensation for the purposes of RCW 28A.400.200.

(4) In addition to certificates under subsection (1) of this section, the award for the school board shall include an educational grant not to exceed two thousand five hundred dollars. The educational grant shall be awarded under RCW 28A.625.060.

(5) Within one year of receiving the Washington award for excellence in education, teachers, classified employees, principals or administrators, and the school district superintendent shall notify the superintendent of public instruction in writing of their decision to apply for an academic grant, a recognition stipend, or an educational grant as provided under subsections (2) and (3) of this section. The superintendent shall notify the higher education coordinating board of those recipients who select the academic grant.

(6) This section applies to all individuals named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education before January 1, 1994.

(7) This section shall expire June 30, 1998.

**Sec. 2.** RCW 28A.625.060 and 1992 c 50 s 3 are each amended to read as follows:

(1) Teachers, classified employees, principals or administrators, and superintendents who have received an award for excellence in education and choose to apply for an educational grant under RCW 28A.625.041 shall be awarded the grant by the superintendent of public instruction as long as a written grant application is submitted to the superintendent within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

(2) This section applies to all individuals named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education before January 1, 1994.

(3) This section shall expire June 30, 1998.

**Sec. 3.** RCW 28A.625.065 and 1992 c 83 s 2 are each amended to read as follows:

(1) Courses paid for in full by the academic grant under RCW 28A.625.041(2)(a) shall be completed within four years after the academic grant is received.

(2) This section applies to all individuals named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education before January 1, 1994.

(3) This section shall expire June 30, 1998.

**NEW SECTION.** Sec. 4. A new section is added to chapter 28A.625 RCW to read as follows:

(1) All recipients of the Washington award for excellence in education shall receive a certificate presented by the governor and the superintendent of public instruction, or their designated representatives, at a public ceremony or ceremonies in appropriate locations.

(2) In addition to the certificate under subsection (1) of this section, the award for teachers, classified employees, superintendents employed by second class school districts, and principals or administrators shall include a recognition award of at least two thousand five hundred dollars. The amount of the recognition award for superintendents employed by first class school districts shall be at least one thousand dollars. The recognition award shall not be considered compensation for the purposes of RCW 28A.400.200.

(3) In addition to the certificate under subsection (1) of this section, the award for the school board shall include a recognition award not to exceed two thousand five hundred dollars. The school board must use its recognition award for an educational purpose.

**NEW SECTION.** Sec. 5. A new section is added to chapter 28B.80 RCW to read as follows:

(1) The higher education coordinating board shall adopt rules establishing procedures for recipients of the Washington award for excellence in education academic grant to convert the remaining value of their grant into a recognition award as provided under section 4 of this act, subject to the availability of funds from the legislature to cover this option. This is an option for individuals named by the office of the superintendent of public instruction as recipients of the Washington award for excellence in education before January 1, 1994, who have elected to receive their award in the form of the academic grant. This option shall be exercised only at the discretion of the academic grant recipients.

(2) This section shall expire June 30, 1998.

**NEW SECTION.** Sec. 6. Section 4 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect April 1, 1994.

**NEW SECTION.** Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 280

[Senate Bill 6080]

## AGRICULTURAL AND FOREST LANDS—PROPERTY DAMAGE LIABILITY

AN ACT Relating to wrongful property damage to agricultural and forest lands; amending RCW 79.01.760; adding a new section to chapter 4.24 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 4.24 RCW to read as follows:

(1) Every person who goes onto the land of another and who removes timber, crops, minerals, or other similar valuable property from the land, or wrongfully causes waste or injury to the land, or wrongfully injures personal property or improvements to real estate on the land, is liable to the injured party for treble the amount of the damages caused by the removal, waste, or injury. For purposes of this section, a person acts "wrongfully" if the person intentionally and unreasonably commits the act or acts while knowing, or having reason to know, that he or she lacks authorization to so act. Damages recoverable under this section include, but are not limited to, damages for the market value of the property removed or injured, and for injury to the land, including the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 64.12.030, 79.01.756, 79.01.760, or 79.40.070.

Sec. 2. RCW 79.01.760 and 1993 c 266 s 1 are each amended to read as follows:

(1) Every person who, without authorization, uses or occupies public lands, removes (~~anything of value~~) any valuable material as defined in RCW 79.01.038 from public lands, or causes waste or damage to public lands, or injures publicly owned personal property or publicly owned improvements to real property on public lands, is liable to the state for treble the amount of the damages. However, liability shall be for single damages if the department of natural resources determines, or the person proves upon trial, that the person, at time of the unauthorized act or acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, publicly owned personal property or publicly owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the state for its reasonable costs, including but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 64.12.030, section 1 of this act, 79.01.756, or 79.40.070.

(3) The department of natural resources is authorized and directed to investigate all trespasses and wastes upon, and damages to, public lands of the state, and to cause prosecutions for, and/or actions for the recovery of, the same, to be commenced as is provided by law.

Passed the Senate March 8, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 281**

[Substitute Senate Bill 6081]

**ON-SITE SEWAGE ADDITIVES**

AN ACT Relating to on-site sewage additives; amending RCW 70.118.020 and 70.118.060; adding new sections to chapter 70.118 RCW; creating a new section; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. The legislature finds that chemical additives do, and that other types of additives may, contribute to septic system failure and ground water contamination. In order to determine which ingredients of nonchemically based additive products have adverse effects on public health or the environment, it is necessary to submit such products to a review procedure.

The purpose of this act is: (1) To establish a timely and orderly procedure for review and approval of on-site sewage disposal system additives; (2) to prohibit the use, sale, or distribution of additives having an adverse effect on public health or the water quality of the state; (3) to require the disclosure of the contents of additives that are advertised, sold, or distributed in the state; and (4) to provide for consumer protection.

**Sec. 2.** RCW 70.118.020 and 1993 c 321 s 2 are each amended to read as follows:

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

(1) "Nonwater-carried sewage disposal devices" means any device that stores and treats nonwater-carried human urine and feces.

(2) "Alternative methods of effluent disposal" means systems approved by the department of health, including at least, mound systems, alternating drain fields, anaerobic filters, evapotranspiration systems, and aerobic systems.

(3) "Failure" means: (a) Effluent has been discharged on the surface of the ground prior to approved treatment; or (b) effluent has percolated to the surface of the ground; or (c) effluent has contaminated or threatens to contaminate a ground water supply.

(4) "Additive" means any commercial product intended to affect the ~~((internal))~~ performance or aesthetics of an on-site sewage disposal system.

(5) "Department" means the department of health.

(6) "On-site sewage disposal system" means any system of piping, treatment devices, or other facilities that convey, store, treat, or dispose of sewage on the property where it originates or on nearby property under the control of the user where the system is not connected to a public sewer system. For purposes of this chapter, an on-site sewage disposal system does not include indoor plumbing and associated fixtures.

(7) "Chemical additive" means those additives containing acids, bases, or other chemicals deemed unsafe by the department for use in an on-site sewage disposal system.

(8) "Additive manufacturer" means any person who manufactures, formulates, blends, packages, or repackages an additive product for sale, use, or distribution within the state.

Sec. 3. RCW 70.118.060 and 1993 c 321 s 3 are each amended to read as follows:

(1) After July 1, 1994, a person may not use, sell, or distribute ~~((an)) a chemical additive to on-site sewage disposal systems ((unless such additive has been specifically approved by the department. The department may approve an additive if it can be demonstrated to the satisfaction of the department that the additive has a positive benefit, and no adverse effect, on the operation or performance of an on-site sewage system. Upon written request by an additive manufacturer or distributor for product evaluation,))~~.

(2) After January 1, 1996, no person shall use, sell, or distribute any on-site sewage disposal additive whose ingredients have not been approved by the department.

(3) Each manufacturer of an on-site sewage disposal system additive that is sold, advertised, or distributed in the state shall submit the following information to the department: (a) The name and address of the company; (b) the name of the product; (c) the complete product formulation; (d) the location where the product is manufactured; (e) the intended method of product application; and (f) a request that the product be reviewed.

(4) The department shall adopt rules providing the criteria, review, and decision-making procedures to be used in reviewing on-site sewage disposal additives for use, sale, or distribution in the state. The criteria shall be designed to determine whether the additive has an adverse effect on public health or water quality. The department may charge a fee sufficient to cover the costs of evaluating the additive, including the development of ((standards)) criteria and review procedures.

~~((2))~~ The fee schedule shall be established by rule.

(5) The department shall issue a decision as to whether a product registered pursuant to subsection (3) of this section is approved or denied within forty-five

days of receiving a complete evaluation as required pursuant to subsection (4) of this section.

(6) Manufacturers shall reregister their product as provided in subsection (3) of this section each time their product formulation changes. The department may require a new approval for products registered under this subsection prior to allowing the use, sale, or distribution within the state.

(7) The department may contract with private laboratories for the performance of any duties necessary to carry out the purpose of this section.

(8) The attorney general or appropriate city or county prosecuting attorney is authorized to bring an appropriate action to enjoin any violation of the prohibition on the sale or distribution of additives, or to enjoin any violation of the conditions in section 5 of this act.

~~((3))~~ (9) The department is responsible for providing written notification to ((major distributors and wholesalers of)) additives manufacturers of the ((state-wide prohibition on additives)) provisions of this section and sections 4 and 5 of this act. The notification shall be provided no later than ((October 1, 1993)) thirty days after the effective date of this section. Within thirty days of notification from the department, ((distributors and wholesalers)) manufacturers shall provide the same notification to their distributors, wholesalers, and retail customers. ((The department shall also provide notification to major distributors and wholesalers of additive products that have been approved.))

NEW SECTION. Sec. 4. A new section is added to chapter 70.118 RCW to read as follows:

The department shall hold confidential any information obtained pursuant to RCW 70.118.060 when shown by any manufacturer that such information, if made public, would divulge confidential business information, methods, or processes entitled to protection as trade secrets of the manufacturer.

NEW SECTION. Sec. 5. A new section is added to chapter 70.118 RCW to read as follows:

(1) Each manufacturer of a certified and approved additive product advertised, sold, or distributed in the state shall:

(a) Make no claims relating to the elimination of the need for septic tank pumping or proper septic tank maintenance;

(b) List the components of additive products on the product label, along with information regarding instructions for use and precautions;

(c) Make no false statements, design, or graphic representation relative to an additive product that is inconsistent with RCW 70.118.060, section 4 of this act, or this section; and

(d) Make no claims, either direct or implied, about the performance of the product based on state approval of its ingredients.

(2) A violation of this section is an unfair act or practice in violation of the consumer protection act, chapter 19.86 RCW.

**NEW SECTION.** Sec. 6. A new section is added to chapter 70.118 RCW to read as follows:

The department may not use funds appropriated to implement an element of the Puget Sound water quality authority plan to conduct any activity required under chapter . . . , Laws of 1994 (this act).

**NEW SECTION.** Sec. 7. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 7, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 282

[Substitute Senate Bill 6082]

### CENTER FOR INTERNATIONAL TRADE IN FOREST PRODUCTS—DUTIES REVISED

AN ACT Relating to the center for international trade in forest products; amending RCW 76.56.020, 76.56.050, 43.131.333, and 43.131.334; adding a new section to chapter 28B.50 RCW; and providing an effective date.

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

**Sec. 1.** RCW 76.56.020 and 1992 c 121 s 1 are each amended to read as follows:

The center shall:

(1) Coordinate the University of Washington's college of forest resources' faculty and staff expertise to assist in:

(a) The development of research and analysis for developing policies and strategies which will expand forest-based international trade, including a major focus on secondary manufacturing;

(b) The development of technology or commercialization support for manufactured products that will meet the evolving needs of international customers; ~~((and))~~

(c) The development of research and analysis on other factors critical to forest-based trade, including the quality and availability of raw wood resources; and

(d) The coordination, development, and dissemination of market and technical information relevant to international trade in forest products, ~~((especially))~~ including a major focus on secondary manufacturing;

(2) Further develop and maintain computer data bases on world-wide forest products production and trade in order to monitor and report on trends significant to the Northwest forest products industry and support the center's research functions; and coordinate this system with state, federal, and private sector efforts to insure a cost-effective information resource that will avoid unnecessary duplication;

(3) Monitor international forest products markets and assess the status of the state's forest products industry, including the competitiveness of small and medium-sized secondary manufacturing firms in the forest products industry, which for the purposes of this chapter shall be firms with annual revenues of twenty-five million or less, and including the increased exports of Washington-produced products of small and medium-sized secondary manufacturing firms;

(4) Provide high-quality research and graduate education and professional nondegree training in international trade in forest products in cooperation with the University of Washington's graduate school of business administration, the school of law, the Jackson school of international studies, the Northwest policy center of the graduate school of public administration, and other supporting academic units;

(5) Develop cooperative linkages with the international marketing program for agricultural commodities and trade at Washington State University, the international trade project of the United States forest service, the department of natural resources, the department of community, trade, and economic development, the small business export finance assistance center, and other state and federal agencies to avoid duplication of effort and programs;

(6) Cooperate with personnel from the state's community and technical colleges in their development of wood products manufacturing and wood technology curriculum and offer periodic workshops on wood products manufacturing, wood technology, and trade opportunities to community colleges and private educators and trainers;

(7) Provide for public dissemination of research, analysis, and results of the center's programs to all groups, including direct assistance groups, through technical workshops, short courses, international and national symposia, cooperation with private sector networks and marketing associations, or other means, including appropriate publications;

~~((7))~~ (8) Establish an executive policy board, including representatives of small and medium-sized businesses, ~~((8))~~ with at least fifty percent of its business members representing small businesses with one hundred or fewer employees and medium-sized businesses with one hundred to five hundred employees. The executive policy board shall also include a representative of the community and technical colleges, representatives of state and federal agencies, and a representative of a wood products manufacturing network or trade association of small and medium-sized wood product manufacturers. The executive policy board shall provide advice on: Overall policy direction and program priorities, state and federal budget requests, securing additional research funds, identifying priority areas of focus for research efforts, selection of projects for research, and dissemination of results of research efforts; and

~~((8))~~ (9) Establish advisory or technical committees for each research program area, to advise on research program area priorities, consistent with the international trade opportunities achievable by the forest products sector of the state and region, to help ensure projects are relevant to industry needs, and to



advise on and support effective dissemination of research results. Each advisory or technical committee shall include representatives of forest products industries that might benefit from this research.

Service on the committees and the executive policy board established in subsections ~~((7))~~ (8) and ~~((8))~~ (9) of this section shall be without compensation but actual travel expenses incurred in connection with service to the center may be reimbursed from appropriated funds in accordance with RCW 43.03.050 and 43.03.060.

**Sec. 2.** RCW 76.56.050 and 1987 c 505 s 74 are each amended to read as follows:

The center shall aggressively solicit financial contributions and support from the forest products industry, federal and state agencies, and other granting sources or through other arrangements to assist in conducting its activities. Subject to RCW 40.07.040, the center shall report ~~((biennially through 1994))~~ annually to the governor and the legislature on its success in obtaining funding from nonstate sources and on its accomplishments in meeting the provisions of this chapter. It may also use separately appropriated funds of the University of Washington for the center's activities.

**NEW SECTION. Sec. 3.** A new section is added to chapter 28B.50 RCW to read as follows:

The state board for community and technical colleges shall develop, in conjunction with the center for international trade in forest products, the Washington State University wood materials and engineering laboratory, and the department of community, trade, and economic development, a competency-based technical degree program in wood product manufacturing and wood technology and make it available in every college district that serves a timber impact area.

**Sec. 4.** RCW 43.131.333 and 1992 c 121 s 2 are each amended to read as follows:

The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, ~~((1994))~~ 2000, as provided in RCW 43.131.334.

**Sec. 5.** RCW 43.131.334 and 1992 c 121 s 3 are each amended to read as follows:

~~((Sections 1 through 5, chapter 122, Laws of 1985 and chapter 76.56 RCW))~~  
The following acts or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, ~~((1995))~~ 2001:

- (1) RCW 76.56.010 and 1985 c 122 s 1;
- (2) RCW 76.56.020 and 1994 c . . . s 1 (section 1 of this act), 1992 c 121 s 1, 1987 c 195 s 16, & 1985 c 122 s 2;
- (3) RCW 76.56.030 and 1985 c 122 s 3;
- (4) RCW 76.56.040 and 1985 c 122 s 4;

(5) RCW 76.56.050 and 1994 c . . . s 2 (section 2 of this act), 1987 c 505 s 74, & 1985 c 122 s 5;

(6) RCW 76.56.900 and 1985 c 122 s 6; and

(7) RCW 28B.50.— and 1994 c . . . s 3 (section 3 of this act).

NEW SECTION. Sec. 6. This act shall take effect July 1, 1994.

Passed the Senate March 5, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 283

[Substitute Senate Bill 6100]

### PESTICIDE APPLICATION REGULATION

AN ACT Relating to pesticide application regulation; amending RCW 17.21.020, 17.21.030, 17.21.060, 17.21.065, 17.21.070, 17.21.080, 17.21.100, 17.21.110, 17.21.122, 17.21.126, 17.21.128, 17.21.129, 17.21.130, 17.21.132, 17.21.134, 17.21.150, 17.21.160, 17.21.170, 17.21.180, 17.21.190, 17.21.200, 17.21.203, 17.21.220, 17.21.230, 17.21.240, 17.21.260, 17.21.280, 17.21.290, 17.21.360, 17.21.400, 17.21.410, 17.21.420, and 17.21.910; reenacting and amending RCW 17.21.050; adding a new section to chapter 17.21 RCW; and prescribing penalties.

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

**Sec. 1.** RCW 17.21.020 and 1992 c 176 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) "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Agricultural land" means land on which an agricultural commodity is produced or land that is in a government-recognized conservation reserve program. This definition does not apply to private gardens where agricultural commodities are produced for personal consumption.

(3) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

~~((3))~~ (4) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

~~((4))~~ (5) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA or the director as a restricted use pesticide (~~or by the state as restricted to use by certified applicators only~~).

~~((5))~~ (6) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

~~((6))~~ (7) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

~~((7))~~ (8) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

~~((8))~~ (9) "Department" means the Washington state department of agriculture.

~~((9))~~ (10) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

~~((10))~~ (11) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests (~~or to destroy, control, repel, or mitigate fungi, nematodes, or such other pests, as may be designated by the director~~), but not including equipment used for the application of pesticides when sold separately from the pesticides.

~~((11))~~ (12) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision and shall require that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

~~((12))~~ (13) "Director" means the director of the department or a duly authorized representative.

~~((13))~~ (14) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

~~((14))~~ (15) "EPA" means the United States environmental protection agency.

~~((15))~~ (16) "EPA restricted use pesticide" means any pesticide ~~((with restricted uses as))~~ classified for restricted use by the administrator, EPA.

~~((16))~~ (17) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

~~((17))~~ (18) "Fumigant" means any pesticide product or combination of products that is a vapor or gas or forms a vapor or gas on application and whose method of pesticidal action is through the gaseous state.

(19) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, and yeasts~~((and bacteria))~~, except those on or in a living person or other animals.

~~((18))~~ (20) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

~~((19))~~ (21) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed or other higher plant.

~~((20))~~ (22) "Immediate service call" means a landscape application to satisfy an emergency customer request for service, or a treatment to control a pest to landscape plants.

~~((21))~~ (23) "Insect" means any ~~((of the numerous))~~ small invertebrate animal~~(s)~~, in any life stage, whose ~~((bodies are more or less obviously))~~ adult form is segmented~~(s)~~ and which ~~((for the most part))~~ generally belongs to the class insecta, ~~((comprising))~~ comprised of six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies~~((and))~~. The term insect shall also apply to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

~~((22))~~ (24) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect~~((s which may be present in any environment whatsoever))~~.

~~((23))~~ (25) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

~~((24))~~ (26) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, ~~((or))~~ schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) ~~((state and~~

~~local health departments and mosquito control districts when conducting mosquito control operations))~~ mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

~~((25))~~ (27) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

~~((26))~~ (28) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts~~((;))~~. Nematodes may also be called nemas or eelworms.

~~((27))~~ (29) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

~~((28))~~ (30) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living person or other animal or in or on processed food or beverages or pharmaceuticals, which is normally considered to be a pest, or which the director may declare to be a pest.

~~((29))~~ (31) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any ~~((insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a))~~ pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own intended to be used with any ~~((other))~~ pesticide as an aid to the application or effect thereof, and sold in a package or container separate from that of the pesticide with which it is to be used.

~~((30))~~ (32) "Pesticide advisory board" means the pesticide advisory board as provided for in this chapter.

~~((31))~~ (33) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

~~((32))~~ (34) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of ~~((a))~~ any pesticide classified by the EPA or the director as a restricted use pesticide~~((; or (b) any restricted use pesticide restricted to use only by certified applicators by the director))~~, for the purposes

of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

~~((33))~~ (35) "Private-commercial applicator" means a certified applicator who uses or supervises the use of ~~((a))~~ any pesticide classified by the EPA or the director as a restricted use pesticide ~~((or (b) any restricted use pesticide restricted to use only by certified applicators))~~ for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

~~((34))~~ (36) "Residential property" includes property less than one acre in size zoned as residential by a city, town, or county, but does not include property zoned as agricultural or agricultural homesites.

~~((35))~~ (37) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

~~((36))~~ (38) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

~~((37))~~ (39) "Snails or slugs" include all harmful mollusks.

~~((38))~~ (40) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

~~((39))~~ (41) "Weed" means any plant which grows where it is not wanted.

**Sec. 2.** RCW 17.21.030 and 1989 c 380 s 34 are each amended to read as follows:

The director shall administer and enforce the provisions of this chapter and rules adopted ~~((hereunder))~~ under this chapter.

(1) The director ~~((shall))~~ may adopt rules:

(a) Governing the loading, mixing, application and use, or prohibiting the loading, mixing, application, or use ~~((or possession for use))~~ of any pesticide;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas ~~((, which areas may be))~~ as prescribed by the director ~~((;))~~ in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit;

(d) Establishing recordkeeping requirements for licensees, permittees, and certified applicators;

(e) Fixing and collecting examination fees and fees for recertification course sponsorship;

(f) Establishing testing procedures, licensing classifications, and requirements for licenses and permits, and criteria for assigning recertification credit to and procedures for department approval of courses as provided by this chapter;

(g) Concerning training by employers for employees who mix and load pesticides;

(h) Concerning minimum performance standards for spray boom and nozzles used in pesticide applications to minimize spray drift and establishing a list of approved spray nozzles that meet these standards; and

~~((g))~~ (i) Fixing and collecting permit fees.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this chapter.

**Sec. 3.** RCW 17.21.050 and 1989 c 380 s 36 and 1989 c 175 s 58 are each reenacted and amended to read as follows:

All hearings for the imposition of a civil penalty and/or the suspension, denial, or revocation of a license, certification, or permit issued under the provisions of this chapter shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings.

**Sec. 4.** RCW 17.21.060 and 1961 c 249 s 6 are each amended to read as follows:

The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, certification, or permit issued under the provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended.

**Sec. 5.** RCW 17.21.065 and 1967 c 177 s 17 are each amended to read as follows:

The director may classify licenses to be issued under the provisions of this chapter ~~(, such)~~. These classifications may include but are not ~~((be))~~ limited to pest control operators, ornamental sprayers, agricultural crop sprayers or right of way sprayers; separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides.

Each such classification shall be subject to separate testing procedures and requirements ~~(- PROVIDED, That))~~. No person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section, except as provided for in RCW 17.21.110.

**Sec. 6.** RCW 17.21.070 and 1993 sp.s. c 19 s 4 are each amended to read as follows:

It shall be unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for the license shall be accompanied by a fee of one hundred thirty-six dollars and in addition a fee of eleven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides: PROVIDED, That the provisions of this section shall not apply to any person employed only to operate any apparatus used for the application of any pesticide, and in which such person has no financial interest or other control over such apparatus other than its day to day mechanical operation for the purpose of applying any pesticide. ~~((Commercial pesticide applicator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

**Sec. 7.** RCW 17.21.080 and 1989 c 380 s 38 are each amended to read as follows:

Application for a commercial pesticide applicator license provided for in RCW 17.21.070 shall be on a form prescribed by the director ~~((and))~~.

(1) The application shall include the following information:

~~((1))~~ (a) The full name of the ~~((person))~~ individual applying for such license.

~~((2))~~ (b) The full name of the business the individual represents with the license.

(c) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or any other organized group of persons whether incorporated or not, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation or group.

~~((3))~~ (d) The principal business address of the applicant in the state ~~((and))~~ or elsewhere.

~~((4))~~ (e) The name of a person whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant.

~~((5))~~ (f) The model, make, horsepower, and size of any apparatus used by the applicant to apply pesticides.

~~((6))~~ (g) License classification or classifications for which the applicant is applying ~~((for))~~.

~~((7))~~ (h) A list of the names of individuals allowed to apply pesticides under the authority of the commercial applicator's license.

(i) Any other necessary information prescribed by the director.

(2) Any changes to the information provided on the prescribed commercial applicator form shall be reported by the business to the department within thirty days of the change.

**NEW SECTION.** **Sec. 8.** A new section is added to chapter 17.21 RCW to read as follows:



(1) No commercial pesticide applicator shall allow a person to apply pesticides under the authority of the commercial pesticide applicator's license unless the commercial pesticide applicator has, by mail or facsimile transmissions, submitted the name to the department on a form prescribed by the department as provided in RCW 17.21.080(2). The department shall maintain a list for each commercial pesticide applicator of persons authorized to apply pesticides under the authority of the commercial pesticide applicator's license.

(2) Violations of this chapter by a person acting as an employee, agent, or otherwise acting on behalf of or under the license authority of a commercial pesticide applicator, may, in the discretion of the department, be treated as a violation by the commercial pesticide applicator.

**Sec. 9.** RCW 17.21.100 and 1992 c 173 s 1 are each amended to read as follows:

(1) ~~((Pesticide))~~ Certified applicators licensed under the provisions of this chapter ~~((and)), persons required to be licensed under this chapter,~~ all persons applying pesticides to more than one acre of agricultural land in a calendar year, including public entities engaged in roadside spraying of pesticides, and all other persons making landscape applications of pesticides to types of property listed in RCW 17.21.410 (1)(b), (c), (d), and (e), shall keep records for each application which shall include the following information:

(a) The location of the land where the pesticide was applied~~((:));~~;

(b) The year, month, day and beginning and ending time of the application of the pesticide each day the pesticide was applied~~((:));~~;

(c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide which was applied~~((:));~~;

(d) The crop or site to which the pesticide was applied~~((:));~~;

(e) The amount of pesticide applied per acre or other appropriate measure~~((:));~~;

(f) The concentration of pesticide that was applied~~((:));~~;

(g) The number of acres, or other appropriate measure, to which the pesticide was applied~~((:));~~;

(h) The licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application~~((:))~~ and their license number, if applicable;

(i) The direction and estimated velocity of the wind ~~((at))~~ during the time the pesticide was applied~~((: - PROVIDED, That))~~. This subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures~~((:));~~ and

(j) Any other reasonable information required by the director in rule.

(2)(a) The ~~((records))~~ required information shall be ~~((updated))~~ recorded on the same day that a pesticide is applied.

(b) A commercial pesticide applicator who applies a pesticide to an agricultural crop or agricultural lands shall provide a copy of the records required

under subsection (1) of this section for the application to the owner, or to the lessee if applied on behalf of the lessee, of the lands to which the pesticide is applied. Records provided by a commercial pesticide applicator to the owner or lessee of agricultural lands under this subsection need not be provided on a form adopted by the department.

(3) The records required under this section shall be maintained and preserved by the licensed pesticide applicator or such other person or entity applying the pesticides for no less than seven years from the date of the application of the pesticide to which such records refer. If the pesticide was applied by a commercial pesticide applicator to the agricultural crop or agricultural lands of a person who employs one or more employees, as "employee" is defined in RCW 49.70.020, the records shall also be kept by the employer for a period of seven years from the date of the application of the pesticide to which the records refer.

(4)(a) The pesticide records shall be readily accessible to the department for inspection. Copies of the records shall be provided on request to: The department; the department of labor and industries; treating health care personnel initiating diagnostic testing or therapy for a patient with a suspected case of pesticide poisoning; the department of health; the pesticide incident reporting and tracking review panel; and, in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, the employee or the employee's designated representative. In addition, the director may require the submission of the records on a routine basis within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of the restricted use pesticide. When a request for records is made under this subsection by treating health care personnel and the record is required for determining treatment, copies of the record shall be provided immediately. For all other requests, copies of the record shall be provided within seventy-two hours.

(b) Copies of records provided to a person or entity under this subsection (4) shall, if so requested, be provided on a form adopted under subsection (7) of this section. Information for treating health care personnel shall be made immediately available by telephone, if requested, with a copy of the records provided within twenty-four hours.

(5) If a request for a copy of the record is made under this section from an applicator referred to in subsection (1) of this section and the applicator refuses to provide a copy, the requester may notify the department of the request and the applicator's refusal. Within seven working days, the department shall request that the applicator provide the department with all pertinent copies of the records, except that in a medical emergency the request shall be made within two working days. The applicator shall provide copies of the records to the department within twenty-four hours after the department's request.

(6) The department shall include inspection of the records required under this section as part of any on-site inspection conducted under this chapter on

agricultural lands. The inspection shall determine whether the records are readily transferable to a form adopted by the department and are readily accessible to employees. However, no person subject to a department inspection may be inspected under this subsection (6) more than once in any calendar year, unless a previous inspection has found recordkeeping violations. If recordkeeping violations are found, the department may conduct reasonable multiple inspections, pursuant to rules adopted by the department. Nothing in this subsection (6) limits the department's inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(7) The department of agriculture and the department of labor and industries shall jointly adopt, by rule, forms that satisfy the information requirements of this section.

**Sec. 10.** RCW 17.21.110 and 1993 sp.s. c 19 s 5 are each amended to read as follows:

It shall be unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under the provisions of this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license shall be in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license shall be accompanied by a license fee of thirty-three dollars. The provisions of this section shall not apply to any individual who is a licensed commercial pesticide applicator. ~~((Commercial pesticide operator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

**Sec. 11.** RCW 17.21.122 and 1993 sp.s. c 19 s 6 are each amended to read as follows:

It shall be unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license shall be accompanied by a license fee of seventeen dollars before a license may be issued. ~~((Private-commercial applicator licenses issued by the director shall be annual licenses expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

**Sec. 12.** RCW 17.21.126 and 1993 sp.s. c 19 s 7 are each amended to read as follows:

It shall be unlawful for any person to act as a private pesticide applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment,

including injury to the pesticide applicator or other persons, for ~~((that))~~ each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private pesticide applicator is ~~((to be))~~ certified ~~((to use))~~ shall be relative to hazards ~~((according to RCW 17.21.030 as now or hereafter amended))~~ of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director shall take into consideration standards of the EPA and is authorized to adopt ~~((by rule))~~ these standards by rule.

(2) Application for private pesticide applicator certification shall be accompanied by a license fee of seventeen dollars ~~((before a certification may be issued)).~~ Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate state-wide or agricultural license categories are exempt from ~~((this))~~ the private applicator fee requirement ~~((provided that)).~~ However, licensed public pesticide operators, otherwise exempted from ~~((that))~~ the public pesticide operator license fee requirement, are not also exempted from the private pesticide applicator fee requirement. ~~((Private applicator certification issued by the director shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

**Sec. 13.** RCW 17.21.128 and 1986 c 203 s 9 are each amended to read as follows:

(1) The director may renew any certification or license issued under authority of this chapter ~~((under the classification for which such applicant is licensed or certified))~~ subject to the recertification standards ~~((as determined by the director))~~ identified in subsection (2) of this section or an examination ~~((regarding))~~ requiring new knowledge that may be required to apply pesticides.

(2) Except as provided in subsection (3) of this section, all individuals licensed under this chapter shall meet the recertification standards identified in (a) or (b) of this subsection, every five years, in order to qualify for continuing licensure.

(a) Licensed pesticide applicators may qualify for continued licensure through accumulation of recertification credits.

(i) Private pesticide applicators shall accumulate a minimum of twenty department-approved credits every five years with no more than eight credits allowed per year;

(ii) All other license types established under this chapter shall accumulate a minimum of forty department-approved credits every five years with no more than fifteen credits allowed per year.

(b) Certified pesticide applicators may qualify for continued licensure through meeting the examination requirements necessary to become licensed in those areas in which the licensee operates.

(3) At the termination of a licensee's five-year recertification period, the director may waive the requirements identified in subsection (2) of this section if the licensee can demonstrate that he or she is meeting comparable recertification standards through another state or jurisdiction or through a federal environmental protection agency approved government agency plan.

**Sec. 14.** RCW 17.21.129 and 1993 sp.s. c 19 s 8 are each amended to read as follows:

Except as provided in RCW 17.21.203(~~(4)~~), it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide (~~((which is restricted to use by certified applicators.))~~) on small experimental plots for research purposes when no charge is made for the pesticide and its application(~~(7)~~) without a demonstration and research applicator's license.

~~((A license fee of seventeen dollars shall be paid before a demonstration and research license may be issued. The demonstration and research applicator license shall be an annual license expiring on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.))~~

(1) Application for a demonstration and research certification shall be accompanied by a license fee of seventeen dollars.

(2) Persons licensed in accordance with this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.

**Sec. 15.** RCW 17.21.130 and 1989 c 380 s 46 are each amended to read as follows:

Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause. If the director suspends a license under this chapter with respect to activity of a continuing nature under chapter 34.05 RCW, the director may elect to suspend the license for a subsequent license year during a period that coincides with the period commencing thirty days before and ending thirty days after the date of the incident or incidents giving rise to the violation.

**Sec. 16.** RCW 17.21.132 and 1991 c 109 s 35 are each amended to read as follows:

Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director.

(1) The application shall state the license or certification and the classification(s) for which the applicant is applying (~~((for))~~) and the method in which the pesticides are to be applied.

(2) For all classes of licenses except private applicator, all applicants shall be at least eighteen years of age on the date that the application is made.

Applicants for a private pesticide applicator license shall be at least sixteen years of age on the date that the application is made.

(3) Application for a license to apply pesticides shall be accompanied by the required fee. No license may be issued until the required license fee has been received by the department. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.

(4) Each classification of license issued under this chapter shall expire annually on a date set by rule by the director. License expiration dates may be staggered for administrative purposes. Renewal applications shall be filed on or before the applicable expiration date ((set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses)).

**Sec. 17.** RCW 17.21.134 and 1989 c 380 s 45 are each amended to read as follows:

(1) The director shall not issue a commercial pesticide applicator license until the applicant, if he or she is the sole owner and manager of the business(~~or if there is more than one owner, the person managing the business,~~) has passed ~~((an examination))~~ examinations in all classifications that the business operates. If there is more than one owner or the owner does not participate in the pesticide application activities, the person managing the pesticide application activities of the business shall be licensed in all classifications that the business operates. The director shall not issue a commercial pesticide operator, public operator, private commercial applicator, or demonstration and research applicator license until the applicant has passed an examination(~~((Such examinations shall require the applicant to demonstrate to the director))~~) demonstrating knowledge of:

(a) How to apply pesticides under the classification for which he or she has applied (~~for~~), manually or with the various apparatuses that he or she may operate;

(b) The nature and effect of pesticides he or she may apply under such classifications; and

(c) Any other matter the director determines to be a necessary subject for examination.

(2) The director shall charge an examination fee established ~~((by the director))~~ by rule when an examination is necessary before a license may be issued or when application for such license and examination is made at other than a regularly scheduled examination date ~~((as provided for by the director))~~.

(3) The director may prescribe separate testing procedures and requirements for each license.

**Sec. 18.** RCW 17.21.150 and 1989 c 380 s 48 are each amended to read as follows:

A person who has committed any of the following acts is declared to be in violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Applied worthless or improper (~~(materials)~~) pesticides;

(3) Operated a faulty or unsafe apparatus;

(4) Operated in a faulty, careless, or negligent manner;

(5) Refused or neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the director including a final order of the director directing payment of a civil penalty. In an adjudicative proceeding arising from the department's denial of a license for failure to pay a civil penalty the subject shall be limited to whether the payment was made and the proceeding may not be used to collaterally attack the final order;

(6) Refused or neglected to keep and maintain the pesticide application records required by rule, or to make reports when and as required;

(7) Made false or fraudulent records, invoices, or reports;

(8) (~~Engaged in the business of applying a pesticide without having an appropriately licensed person in direct "on-the-job" supervision~~) Acted as a certified applicator without having provided direct supervision to an unlicensed person as defined in RCW 17.21.020(12);

(9) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus;

(10) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(11) Is not qualified to perform the type of pest control under the conditions and in the locality in which he or she operates or has operated, regardless of whether or not he or she has previously passed a pesticide license examination;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(13) Knowingly made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or investigation;

(14) Impersonated any state, county or city inspector or official; (~~(or)~~)

(15) (~~Used or supervised the use of a~~) Applied a restricted use pesticide (~~(restricted to use by certified applicators)~~) without having a certified applicator in direct supervision(~~(-)~~);

(16) Operated a commercial pesticide application business: (a) Without an individual licensed as a commercial pesticide applicator or (b) with a licensed commercial pesticide applicator not licensed in the classification or classifications in which the business operates; or

(17) Operated as a commercial pesticide applicator without meeting the financial responsibility requirements including not having a properly executed financial responsibility insurance certificate or surety bond form on file with the department.

**Sec. 19.** RCW 17.21.160 and 1989 c 380 s 49 are each amended to read as follows:

The director shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility ~~((with the director consisting))~~.

(1) Evidence of financial responsibility shall consist of either ((of) a surety bond; or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant((+ PROVIDED, That such)). The surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants or land being worked upon by the applicant. The director shall not accept a surety bond or liability insurance policy except from authorized insurers in this state or if placed as a surplus line as provided for in chapter 48.15 RCW ~~((as enacted or hereafter amended))~~.

(2) Evidence of financial responsibility shall be supplied to the department on a financial responsibility insurance certificate or surety bond form (blank forms supplied by the department to the applicant).

**Sec. 20.** RCW 17.21.170 and 1983 c 95 s 7 are each amended to read as follows:

The following requirements apply to the amount of bond or insurance required for commercial applicators:

(1) The amount of the surety bond or liability insurance, as provided for in RCW 17.21.160, shall be not less than fifty thousand dollars for property damage and public liability insurance, each separately, and including loss or damage arising out of the actual use of any pesticide. The surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period.

(2) The property damage portion of this requirement may be waived by the director if it can be demonstrated by the applicant that all applications performed under this license occur under confined circumstances and on property owned or leased by the applicant.

(3) The director shall be notified ten days before any reduction of insurance coverage at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer and by the insured.

(4) The total and aggregate of the surety and insurer for all claims is limited to the face of the bond or liability insurance policy. The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding five thousand dollars for all applicators for the total amount of liability insurance or surety bond required by this section, but if the applicant has not satisfied the requirement of the deductible amount in any prior legal claim the deductible clause shall not be accepted by the director unless the applicant furnishes the director with a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his application of pesticides.



**Sec. 21.** RCW 17.21.180 and 1989 c 380 s 50 are each amended to read as follows:

The commercial pesticide applicator license shall, whenever the licensee's surety bond or insurance policy is reduced below the requirements of RCW 17.21.170 or whenever the commercial applicator has not supplied evidence of financial responsibility, as required by RCW 17.21.160 and 17.21.170, by the expiration date of the previous policy or surety bond, be automatically suspended until such licensee's surety bond or insurance policy again meets the requirements of RCW 17.21.170(~~---PROVIDED, That~~). In addition, the director may pick up such licensee's license plates during such period of automatic suspension and return them only at such time as the (~~said~~) licensee has furnished (~~the director with~~) written proof that he or she is in compliance with the provisions of RCW 17.21.170.

**Sec. 22.** RCW 17.21.190 and 1991 c 263 s 1 are each amended to read as follows:

Any person suffering property loss or damage resulting from the use or application by others of any pesticide shall file with the director a verified report of loss (~~setting~~).

(1) The report shall set forth, so far as known to the claimant, the following:

~~((1))~~ (a) The name and address of the claimant~~((:));~~

~~((2))~~ (b) The type, kind, property alleged to be injured or damaged~~((:));~~

~~((3))~~ (c) The name of the person applying the pesticide and allegedly responsible~~((:)); and~~

~~((4))~~ (d) The name of the owner or occupant of the property for whom such application of the pesticide was made.

(2) The report shall be filed within thirty days from the time that the property loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report shall be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the damage.

(3) Any person filing a report of loss under this section shall cooperate with the department in conducting an investigation of such a report and shall provide the department or authorized representatives of the department access to any affected property and any other necessary information relevant to the report. If a claimant refuses to cooperate with the department, the report shall not be acted on by the department.

(4) The filing of (~~such~~) a report or the failure to file (~~such~~) a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

(5) The failure to file (~~such~~) a report shall not be a violation of this chapter. However, if the person failing to file such report is the only one

suffering loss from such use or application of a pesticide by a pesticide applicator or operator, the director may refuse to act upon the complaint.

**Sec. 23.** RCW 17.21.200 and 1992 c 170 s 9 are each amended to read as follows:

The provisions of this chapter relating to commercial pesticide applicator licenses and requirements for their issuance shall not apply to:

(1) Any forest landowner, or his or her employees, applying pesticides with ground apparatus or manually, on his or her own lands or any lands or rights of way under his or her control; or ~~((t))~~

(2) Any farmer owner of ground apparatus applying pesticides for himself or herself or if applied on an occasional basis not amounting to a principal or regular occupation without compensation other than trading of personal services between producers of agricultural commodities on the land of another person; or ~~((t))~~

(3) Any grounds maintenance person conducting grounds maintenance on an occasional basis not amounting to a regular occupation; or

(4) Persons who apply pesticides as an incidental part of their business, such as dog grooming services or such other businesses as shall be identified by the director.

However, persons exempt under this section shall not use restricted use pesticides ~~((restricted to use by certified applicators))~~ and shall not advertise or publicly hold themselves out as pesticide applicators.

**Sec. 24.** RCW 17.21.203 and 1981 c 297 s 23 are each amended to read as follows:

~~((t))~~ The licensing provisions of this chapter shall not apply to research personnel of federal, state, county, or municipal agencies when performing pesticide research in their official capacities ~~((PROVIDED, That))~~, however when such persons are applying restricted use pesticides ~~((restricted to use by certified applicators))~~, they shall be licensed as public operators.

~~((2) The licensing provisions of this chapter shall not apply to any other person when applying pesticides to small experimental plots for research purposes when no charge is made for the pesticide and its application: PROVIDED, That if such persons are not provided for in subsection (1) of this section and are applying pesticides restricted to use by certified applicators, they shall be required to be licensed as demonstration and research applicators in accordance with RCW 17.21.129, but shall be exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180.)~~

**Sec. 25.** RCW 17.21.220 and 1993 sp.s. c 19 s 9 are each amended to read as follows:

(1) All state agencies, municipal corporations, and public utilities or any other governmental agency shall be subject to the provisions of this chapter and rules adopted thereunder concerning the application of pesticides.

(2) It shall be unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide (~~(restricted to use by certified applicators)~~), or any pesticide by means of an apparatus, without having obtained a public operator license from the director. A license fee of seventeen dollars shall be paid before a public operator license may be issued. The license fee shall not apply to public operators licensed and working in the health vector field. (~~Public operator licenses shall expire annually on a date set by rule by the director. License fees shall be prorated where necessary to accommodate staggering of expiration dates of a license or licenses.~~) The public operator license shall be valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted (~~(to use by certified applicators)~~) use pesticides to control pests other than weeds.

(4) Such agencies, municipal corporations and public utilities shall be subject to legal recourse by any person damaged by such application of any pesticide, and such action may be brought in the county where the damage or some part thereof occurred.

**Sec. 26.** RCW 17.21.230 and 1989 c 380 s 54 are each amended to read as follows:

(1) There is hereby created a pesticide advisory board consisting of ~~((three))~~ four licensed pesticide applicators residing in the state (one shall be licensed to operate agricultural ground apparatus, one shall be an urban landscape applicator, one shall be licensed to operate aerial apparatus, and one shall be licensed for structural pest control), one licensed pest control consultant, one licensed pesticide dealer manager, one entomologist in public service, one toxicologist in public service, one pesticide coordinator from Washington State University, one member from the agricultural chemical industry, one member from the food processing industry, one member representing agricultural labor, one health care practitioner in private practice, ~~((one))~~ two members from the environmental community, one producer of aquacultural products, and two producers of agricultural crops or products on which pesticides are applied (~~(or which may be affected by the application of pesticides)~~).

(2) Such members shall be appointed by the ~~((governor))~~ director for terms of four years and may be appointed for successive four-year terms at the discretion of the ~~((governor. The governor))~~ director. The terms shall be staggered so that approximately one-fourth of the terms expire on June 30 of each calendar year. In making appointments, the director shall seek nominations from affected agricultural and environmental groups. The director may remove any member of the pesticide advisory board prior to the expiration of his or her term of appointment for cause. The pesticide advisory board shall also include the following nonvoting members: The director of the department of labor and

industries or a duly authorized representative, the environmental health specialist from the ~~((division of health of the department of social and health services))~~ department of health, the ~~((supervisor))~~ assistant director of the ~~((chemical))~~ pesticide management division of the department, and the directors, or their appointed representatives, of the department~~((s))~~ of ~~((wildlife, fisheries))~~ fish and wildlife, natural resources, and ecology.

**Sec. 27.** RCW 17.21.240 and 1989 c 380 s 55 are each amended to read as follows:

Upon the death, resignation or removal for cause of any member of the pesticide advisory board, the ~~((governor))~~ director shall attempt to fill such vacancy, within thirty days of its creation, for the remainder of its term in the manner herein prescribed for appointment to the board.

**Sec. 28.** RCW 17.21.260 and 1989 c 380 s 57 are each amended to read as follows:

The pesticide advisory board shall elect one of its members ~~((chairman))~~ as chair. The members of the board shall meet at such time and at such place as shall be specified by the call of the director, ~~((chairman))~~ chair, or a majority of the board.

**Sec. 29.** RCW 17.21.280 and 1989 c 380 s 59 are each amended to read as follows:

All moneys collected under the provisions of this chapter shall be paid to the director and deposited in the agricultural local fund, RCW 43.23.230, for use exclusively in the enforcement of this chapter~~((+ PROVIDED, That))~~. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW ~~((as now exists or is later amended))~~.

**Sec. 30.** RCW 17.21.290 and 1989 c 380 s 60 are each amended to read as follows:

All licensed apparatuses shall be identified by a license plate furnished by the director, at no cost to the licensee, which plate shall be affixed in a location and manner upon such apparatus as prescribed ~~((by the director))~~ in rule.

**Sec. 31.** RCW 17.21.360 and 1993 sp.s. c 19 s 10 are each amended to read as follows:

Each registration and licensing fee under this chapter is increased by a surcharge of six dollars to be deposited in the agricultural local fund, provided that an additional one-time surcharge of five dollars shall be collected on January 1, 1990. The revenue raised by the imposition of this surcharge shall be used to assist in funding the pesticide incident reporting and tracking review panel, department of ~~((social and health services'))~~ health's pesticide investigations, and the department of agriculture's pesticide investigations.

**Sec. 32.** RCW 17.21.400 and 1992 c 176 s 2 are each amended to read as follows:

(1)(a) A certified applicator making a landscape application shall display the name and telephone number of the applicator or the applicator's employer on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(b) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION" on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(2) If a certified applicator receives a written request for information on a landscape or right of way spray application, the applicator shall provide the requestor with the name or names of each pesticide applied and (a) a copy of the material safety data sheet for each pesticide; or (b) a pesticide fact sheet for each pesticide as developed or approved by the department.

(3) The director shall adopt rules establishing the size and lettering requirements of the apparatus display signs required under this section.

**Sec. 33.** RCW 17.21.410 and 1992 c 176 s 5 are each amended to read as follows:

(1) A certified applicator making a landscape application to:

(a) Residential property shall at the time of the application place a marker at the usual point of entry to the property. If the application is made to an isolated spot that is not a substantial portion of the property, the applicator shall only be required to place a marker at the application site. If the application is in a fenced or otherwise isolated backyard, no marker is required.

(b) Commercial properties such as apartments or shopping centers shall at the time of application place a marker in a conspicuous location at or near each site being treated.

(c) A golf course shall at the time of the application place a marker at the first tee and tenth tee or post the information in a conspicuous location such as on a central message board.

~~((e))~~ (d) A school, nursery school, or licensed day care shall at the time of the application place a marker at each primary point of entry to the school grounds.

~~((d))~~ (e) A park, cemetery, rest stop, or similar property as may be defined in rule shall at the time of the application place a marker at each primary point of entry.

(2) An individual making a landscape application to a school grounds, nursery school, or licensed day care, and not otherwise covered by subsection (1) of this section, shall be required to comply with the posting requirements in subsection (1)(d) of this section.

(3) The marker shall be a minimum of four inches by five inches. It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger size requirements for markers may be established in rule for specific

applications. The company name and service mark with the applicator's telephone number where information can be obtained shall be included between the headline and the footer on the marker. The letters and service marks shall be printed in colors contrasting to the background.

~~((3))~~ (4) The property owner or tenant shall remove the marker ~~((the day following the application))~~ according to the schedule established in rule. A commercial applicator is not liable for the removal of markers by unauthorized persons or removal outside the designated removal time.

~~((4))~~ (5) A certified applicator who complies with this section cannot be held liable for personal property damage or bodily injury resulting from markers that are placed as required.

**Sec. 34.** RCW 17.21.420 and 1992 c 176 s 3 are each amended to read as follows:

(1) The department shall develop a list of pesticide-sensitive individuals. The list shall include any person with a documented pesticide sensitivity who submits information to the department on an application form developed by the department indicating the person's pesticide sensitivity.

(2) An applicant for inclusion on the pesticide-sensitive list may apply to the department at any time and shall provide the department, on the department's form, the name, street address, and telephone number of the applicant and of each property owner with property abutting the applicant's principal place of residence. The pesticide sensitivity of an individual shall be certified by a physician who holds a valid license to practice medicine in this state. The lands listed on an application for inclusion on the pesticide-sensitive list shall constitute the pesticide notification area for that applicant. For highway or road right of ways, a property abutting shall mean that portion of the property within one-half mile of the principal place of residence.

(3) A person whose name has been included on the pesticide-sensitive list shall notify the department of a need to update the list as soon as possible after: (a) A change of address or telephone number; (b) a change in ownership of property abutting a pesticide-sensitive individual; (c) a change in the applicant's condition; or (d) the sensitivity is deemed to no longer exist.

(4) The pesticide-sensitive list shall expire on December 31 of each year. The department shall distribute application forms for the new list at a reasonable time prior to the expiration of the current list, including mailing an application form to each person on the current list at the address given by the person in his or her most recent application. Persons desiring to be placed on or remain on the list shall submit a new application each year.

(5) The department shall distribute the list by ~~((February 15))~~ January 1 and June 15 of each year to all certified applicators likely to make landscape applications. The list shall provide multiple methods of accessing the information so that certified applicators making landscape applications or right of way applications are able to easily determine what properties and individuals require notification for a specific application. An updated list shall be distributed

whenever deemed necessary by the department. Certified applicators may request a list of newly registered individuals that have been added to the list since the last distribution. Registered individuals shall receive verification that their name has been placed on the list.

**Sec. 35.** RCW 17.21.910 and 1992 c 170 s 10 are each amended to read as follows:

Unless revoked for cause by the director, any license issued under the provisions of this chapter and in effect on June 7, 1961, shall continue in full force and effect until its expiration date: **PROVIDED**, That public pesticide operator, private commercial pesticide applicator and demonstration and research pesticide applicator licenses in effect on December 31, 1985, shall expire on December 31, 1990, and any public operator, private commercial applicator and demonstration and research pesticide applicator licenses issued after December 31, 1985, and in effect on December 31, 1986, shall expire on December 31, 1991. Unless revoked for cause, any private commercial pesticide applicator and demonstration and research pesticide applicator licenses issued prior to June 11, 1992, shall be valid until their expiration date.

Passed the Senate March 5, 1994.

Passed the House March 1, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 284

[Second Substitute Senate Bill 6107]

### DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT— FEES—MANUFACTURED HOUSING, CONSUMER PROTECTION

AN ACT Relating to fees for services for the department of community, trade, and economic development; amending RCW 70.95H.040, 46.70.135, and 46.70.180; reenacting and amending RCW 43.210.110; adding new sections to chapter 43.330 RCW; adding a new section to chapter 70.95H RCW; adding new sections to chapter 46.70 RCW; adding a new chapter to Title 43 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 43.330 RCW to read as follows:

The department is authorized to charge reasonable fees to cover costs for conferences, workshops, and training purposes and to expend those fees for the purposes for which they were collected.

**NEW SECTION.** Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

In order to extend its services and programs, the department may charge reasonable fees for services and products provided in the areas of financial assistance, housing, international trade, community assistance, economic development, and other service delivery areas, except as otherwise provided.

These fees are not intended to exceed the costs of providing the service or preparing and distributing the product.

**\*NEW SECTION.** *Sec. 3. A new section is added to chapter 43.330 RCW to read as follows:*

*Before the fees authorized in sections 2, 12, and 22 of this act become effective the department shall:*

*(1) Submit the proposed schedule of fees to the office of financial management for approval on or before November 1, 1994; and*

*(2) Submit the fees approved by the office of financial management to the appropriate committees of the senate and house of representatives before December 1, 1994.*

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

**NEW SECTION.** *Sec. 4. A new section is added to chapter 43.330 RCW to read as follows:*

The community and economic development fee account is created in the state treasury. The department may create subaccounts as necessary. The account consists of all receipts from fees charged by the department under sections 1 and 2 of this act and RCW 43.210.110. Expenditures from the account may be used only for the purposes of this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation.

**\*Sec. 5.** *RCW 70.95H.040 and 1991 c 319 s 206 are each amended to read as follows:*

*In order to carry out its responsibilities under this chapter, the center may:*

*(1) Receive such gifts, grants, funds, fees, and endowments, in trust or otherwise, for the use and benefit of the purposes of the center. The center may expend the same or any income therefrom according to the terms of the gifts, grants, or endowments;*

*(2) Initiate, conduct, or contract for studies and searches relating to market development for recyclable materials, including but not limited to applied research, technology transfer, and pilot demonstration projects;*

*(3) Obtain and disseminate information relating to market development for recyclable materials from other state and local agencies;*

*(4) Enter into, amend, and terminate contracts with individuals, corporations, trade associations, and research institutions for the purposes of this chapter;*

*(5) Provide grants to local governments or other public institutions to further the development of recycling markets;*

*(6) Provide business and marketing assistance to public and private sector entities within the state; (~~and~~)*

*(7) Evaluate, analyze, and make recommendations on state policies that may affect markets for recyclable materials; and*



**(8) Charge reasonable fees for services, products, conferences, workshops, or any other activity of the center upon any person not required to pay assessments imposed under chapter 82.18 or 82.19 RCW. The fees collected under this subsection shall be expended solely for the purposes of the center.**

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

**\*NEW SECTION.** Sec. 6. A new section is added to chapter 70.95H RCW to read as follows:

*The clean Washington center fee account is created in the state treasury. Proceeds from fees collected by the center for services and products shall be deposited into this account. Expenditures from this account may be used only for the purposes under this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation.*

\*Sec. 6 was vetoed, see message at end of chapter.

Sec. 7. RCW 43.210.110 and 1993 sp.s. c 24 s 922, 1993 c 366 s 1, and 1993 c 280 s 57 are each reenacted and amended to read as follows:

(1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from timber impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center determines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of community, trade, and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its operations. The small business export finance assistance center and the project are authorized to charge reasonable fees for services and products provided and to expend the proceeds for the particular purposes for which they were collected.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in

determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project.

~~((8) All receipts from the Pacific Northwest export assistance project shall be deposited into the general fund. However, during the 1993-95 fiscal biennium, the receipts of the project shall be deposited into the small business export finance assistance center fund under RCW 43.210.070.))~~

**NEW SECTION. Sec. 8.** The fees authorized under sections 1 and 2 of this act and RCW 70.95H.040 and 43.210.110 shall be adopted by rule pursuant to chapter 34.05 RCW.

**NEW SECTION. Sec. 9.** A new section is added to chapter 46.70 RCW to read as follows:

(1) In addition to the requirements contained in RCW 46.70.135, each sale of a new manufactured home in this state is made with an implied warranty that the manufactured home conforms in all material aspects to applicable federal and state laws and regulations establishing standards of safety or quality, and with implied warranties of merchantability and fitness for a particular purpose as permanent housing in the climate of the state.

(2) The implied warranties contained in this section may not be waived, limited, or modified. Any provision that attempts to waive, limit, or modify the implied warranties contained in this section is void and unenforceable.

**NEW SECTION. Sec. 10.** A new section is added to chapter 46.70 RCW to read as follows:

Any dealer, manufacturer, or contractor who installs a manufactured home warrants that the manufactured home is installed in accordance with the state installation code, chapter 296-150B WAC. The warranty contained in this section may not be waived, limited, or modified. Any provision attempting to waive, limit, or modify the warranty contained in this section is void and unenforceable. This section does not apply when the manufactured home is installed by the purchaser of the home.

**Sec. 11.** RCW 46.70.135 and 1989 c 343 s 22 are each amended to read as follows:

Mobile home manufacturers and mobile home dealers who sell mobile homes to be assembled on site and used as residences in this state shall conform to the following requirements:

(1) No new manufactured home may be sold unless the purchaser is provided with a manufacturer's written warranty for construction of the home in compliance with the Magnuson-Moss Warranty Act (88 Stat. 2183; 15 U.S.C. Sec. 47 et seq.; 15 U.S.C. Sec. 2301 et seq.).

(2) No new manufactured home may be sold unless the purchaser is provided with a dealer's written warranty for all installation services performed by the dealer.

(3) The warranties required by subsections (1) and (2) of this section shall be valid for a minimum of one year measured from the date of (~~sale~~) delivery and shall not be invalidated by resale by the original purchaser to a subsequent purchaser or by the certificate of ownership being eliminated or not issued as described in chapter 65.20 RCW. Copies of the warranties shall be given to the purchaser upon signing a purchase agreement and shall include an explanation of remedies available to the purchaser under state and federal law for breach of warranty, the name and address of the federal department of housing and urban development and the state departments of licensing and labor and industries, and a brief description of the duties of these agencies concerning mobile homes.

(4) Warranty service shall be completed within forty-five days after the owner gives written notice of the defect unless there is a bona fide dispute between the parties. Warranty service for a defect affecting health or safety shall be completed within seventy-two hours of receipt of written notice. Warranty service shall be performed on site and a written work order describing labor performed and parts used shall be completed and signed by the service agent and the owner. If the owner's signature cannot be obtained, the reasons shall be described on the work order. Work orders shall be retained by the dealer or manufacturer for a period of three years.

(5) Before delivery of possession of the home to the purchaser, an inspection shall be performed by the dealer or his or her agent and by the purchaser or his or her agent which shall include a test of all systems of the home to insure proper operation, unless such systems test is delayed pursuant to this subsection. At the time of the inspection, the purchaser shall be given copies of all documents required by state or federal agencies to be supplied by the manufacturer with the home which have not previously been provided as required under subsection (3) of this section, and the dealer shall complete any required purchaser information card and forward the card to the manufacturer. A purchaser is deemed to have taken delivery of the manufactured home when all three of the following events have occurred: (a) The contractual obligations between the purchaser and the seller have been met; (b) the inspection of the home is completed; and (c) the systems test of the home has been completed subsequent to the installation of the home, or fifteen days has elapsed since the transport of the home to the site where it will be installed, whichever is earlier. Occupancy of the manufactured home shall only occur after the systems test has occurred and all required utility connections have been approved after inspection.

(6) Manufacturer and dealer advertising which states the dimensions of a home shall not include the length of the draw bar assembly in a listed dimension, and shall state the square footage of the actual floor area.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.330 RCW to read as follows:

The department may mediate disputes that arise regarding any warranty required in chapter 46.70 RCW pertaining to the purchase or installation of a manufactured home. The department may charge reasonable fees for this service and shall deposit the moneys collected in accordance with section 23 of this act.

**Sec. 13.** RCW 46.70.180 and 1993 c 175 s 3 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right

to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his or her authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle (~~the~~) the "on deposit" funds with assets of the dealer, salesman, or mobile home manufacturer instead of holding (~~the~~) the "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Delivery of a manufactured home shall be deemed to occur in accordance with RCW 46.70.135(5). Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent

to commit this unlawful practice: PROVIDED, HOWEVER, That a motor vehicle dealer may keep a separate trust account which equals his or her customary total customer deposits for vehicles for future delivery. For purposes of this section, "on deposit" funds received from a purchaser of a manufactured home means those funds that a seller requires a purchaser to advance before ordering the manufactured home, but does not include any loan proceeds or moneys that might have been paid on an installment contract.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.

(11) For a vehicle dealer to pay to or receive from any person, firm, partnership, association, or corporation acting, either directly or through a subsidiary, as a buyer's agent for consumers, any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.

(12) For a buyer's agent acting directly or through a subsidiary to pay to or to receive from any motor vehicle dealer any compensation, fee, gratuity, or reward in connection with the purchase or sale of a new motor vehicle.

(13) For a buyer's agent to arrange for or to negotiate the purchase, or both, of a new motor vehicle through an out-of-state dealer without disclosing in writing to the customer that the new vehicle would not be subject to chapter 19.118 RCW.

(14) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his or her capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he or she is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) ~~(said)~~ the cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party:



PROVIDED, That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection ~~((11)(b))~~ (14)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(15) Unlawful transfer of an ownership interest in a motor vehicle as defined in RCW 19.116.050.

NEW SECTION. **Sec. 14.** The purpose of this chapter is to ensure that all mobile and manufactured homes are installed by a certified manufactured home installer in accordance with the state installation code, chapter 296-150B WAC, in order to provide greater protections to consumers and make the warranty requirement of section 2 of this act easier to achieve.

NEW SECTION. **Sec. 15.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Director" means the director of community, trade, and economic development.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) Construction of the foundation system;
- (b) Installation of the support piers;
- (c) Required connection to foundation system and support piers;
- (d) Skirting;

(e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and

(f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department as a prerequisite to taking the examination for certification.

**NEW SECTION. Sec. 16.** After July 1, 1995, a mobile or manufactured home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

- (1) Site preparation;
- (2) Sewer and water connections outside of the building site;
- (3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;
- (4) Pouring concrete into forms;
- (5) Painting and dry wall finishing;
- (6) Carpet installation;

(7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;

(8) A mobile or manufactured home owner performing installation work on their own home; and

(9) A manufacturer's mobile home installation crew installing a mobile or manufactured home sold by the manufacturer except for the on-site supervisor. Violation of this section is an infraction.

**NEW SECTION. Sec. 17.** A person desiring to be issued a certificate of manufactured home installation as provided in this chapter shall make application to the department, in such a form as required by the department.

Upon receipt of the application and evidence required in this chapter, the director shall review the information and make a determination as to whether the applicant is eligible to take the training course and examination for the certificate of manufactured home installation. An applicant must furnish written evidence of six months of experience under the direct supervision of a certified manufactured home installer, or other equivalent experience, in order to be eligible to take the training course and examination. The director shall establish reasonable rules for the training course and examinations to be given to applicants for certificates of manufactured home installation. Upon determining that the applicant is eligible to take the training course and examination, the director shall notify the applicant, indicating the time and place for taking the training course and examination.

The requirement that an applicant must be under the direct supervision of a certified manufactured home installer for six months only applies to applications made on or after July 1, 1996. For applications made before July 1, 1996, the department shall require evidence of experience to satisfy this requirement.

The director may allow other persons to take the training course and examination on manufactured home installation, without certification.

**NEW SECTION. Sec. 18.** The department shall prepare a written training course and examination to be administered to applicants for manufactured home installer certification. The examination shall be constructed to determine whether the applicant:

(1) Possesses general knowledge of the technical information and practical procedures that are necessary for manufactured home installation;

(2) Is familiar with the federal and state codes and administrative rules pertaining to manufactured homes; and

(3) Is familiar with the local government regulations as related to manufactured home installations.

The department shall certify the results of the examination and shall notify the applicant in writing whether the applicant has passed or failed the examination. An applicant who failed the examination may retake the training course

and examination. The director may not limit the number of times that a person may take the training course and examination.

**NEW SECTION. Sec. 19.** (1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects meet the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification.

**NEW SECTION. Sec. 20.** Any local government mobile or manufactured home installation application and permit shall state the name and certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue a permit to install a manufactured home unless: (1) The installer submits a copy of the certificate of manufactured home installation to the local government; or (2) work is being performed that does not require a certified installer. When work must be performed by a certified manufactured home installer, no work may commence until the installer or the installer's agent has posted or otherwise made available, with the inspection record card at the set-up site, a copy of the certified manufactured home installer's certificate of manufactured home installation.

**NEW SECTION. Sec. 21.** (1) The department may revoke a certificate of manufactured home installation upon the following grounds:

- (a) The certificate was obtained through error or fraud;
- (b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation code, WAC 296-150B-200 through 296-150B-255; or
- (c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW.

**NEW SECTION. Sec. 22.** The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but

not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in section 23 of this act and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs.

**NEW SECTION. Sec. 23.** The manufactured home installation training account is created in the state treasury. All receipts collected under this chapter and any legislative appropriations for manufactured home installation training shall be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used for the purposes of this chapter. Unexpended and unencumbered moneys that remain in the account at the end of the fiscal year do not revert to the state general fund but remain in the account, separately accounted for, as a contingency reserve.

**NEW SECTION. Sec. 24.** An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local government building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter.

**NEW SECTION. Sec. 25.** An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent by certified mail to the person named in the notice by the authorized representative.

**NEW SECTION. Sec. 26.** (1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction;

(g) A statement, that the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(h) A statement that refusal to sign the infraction as directed in (g) of this subsection is a misdemeanor; and

(i) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail.

NEW SECTION. Sec. 27. Each day in which a person engages in the installation of manufactured homes in violation of this chapter is a separate infraction. Each worksite at which a person engages in the trade of manufactured home installation in violation of this chapter is a separate infraction.

NEW SECTION. Sec. 28. It is a violation of this chapter for any contractor, manufactured home dealer, manufacturer, or home dealer's or manufacturer's agent to engage any person to install a manufactured home who is not certified in accordance with this chapter.

NEW SECTION. Sec. 29. All violations designated as an infraction shall be adjudicated in accordance with the administrative procedure act, chapter 34.05 RCW.

NEW SECTION. Sec. 30. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction.

NEW SECTION. Sec. 31. (1) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty of one thousand dollars.

(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be remitted as provided in chapter 3.62 RCW.

NEW SECTION. Sec. 32. The director may adopt rules in accordance with chapter 34.05 RCW, make specific decisions, orders, and rulings, include demands and findings within the decisions, orders, and rulings, and take other necessary action for the implementation and enforcement of duties under this chapter.

NEW SECTION. Sec. 33. Sections 14 through 32 of this act shall constitute a new chapter in Title 43 RCW.

**NEW SECTION.** Sec. 34. 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. 35. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1994.

Passed the House March 10, 1994.

Approved by the Governor April 1, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 1, 1994.

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

"I am returning herewith, without my approval as to sections 3, 5, and 6, Second Substitute Senate Bill No. 6107 entitled:

"AN ACT Relating to fees for services for the department of community, trade and economic development;"

Sections 1 through 8 of Second Substitute Senate Bill No. 6107 grant authority to assess fees for services provided by various economic development programs.

Section 3 would require the Office of Financial Management to approve a fee schedule proposed by the Department of Community, Trade and Economic Development. I am concerned that the section would set an inappropriate precedent for the Office of Financial Management's review of fees. Currently OFM approves certain internal revolving fund rates because of the effect these charges have on other state agency budgets. It does not approve specific fee schedules for the various fees assessed by other agencies. The section would establish an unnecessary oversight role for OFM.

Section 5 would grant authority to the Clean Washington Center to assess fees for services rendered. It prohibits fees to be assessed to any person who pays assessments imposed under chapter 82.18 or 82.19 RCW. I am concerned that the language is written so broadly that it would apply to nearly every citizen of the state who purchases a product upon which these taxes are levied. In effect, the Clean Washington Center would be denied the ability to assess fees. In the process of setting fees by rule, the department shall take into account any assessments paid by a firm participating in the program.

Section 6 of the bill creates a Clean Washington Center fee account in the state treasury. I believe that it is more appropriate for the department to maintain these funds in a subaccount as they have authority to do under current law. For this reason, I am vetoing this section.

With the exception of sections 3, 5, and 6, Second Substitute Senate Bill No. 6107 is approved."

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## CHAPTER 285

[Engrossed Substitute Senate Bill 6124]

### ROOFING AND SIDING CONTRACTORS AND SALESPERSONS

AN ACT Relating to the protection of a homeowner's equity by prohibiting certain unfair business practices; adding a new chapter to Title 19 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 many homeowners are solicited by siding and roofing contractors to purchase home improvements.

Some contractors misrepresent the financing terms or the cost of the improvements, preventing the homeowner from making an informed decision about whether the improvements are affordable. The result is that many homeowners face financial hardship including the loss of their homes through foreclosure. The legislature declares that this is a matter of public interest. It is the intent of the legislature to establish rules of business practice for roofing and siding contractors to promote honesty and fair dealing with homeowners.

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

(1) "Roofing or siding contract" means an agreement between a roofing or siding contractor or salesperson and a homeowner that includes, in part, an agreement to install, repair or replace residential roofing or siding for a total cost including labor and materials in excess of one thousand dollars.

This chapter does not apply to the following contracts:

(a) Residential remodel or repair contracts where the cost specified for roofing or siding is less than twenty percent of the total contract price;

(b) Contracts where the roofing or siding is part of a contract to build a new dwelling or an addition that provides additional living space;

(c) Contracts for emergency repairs made necessary by a natural disaster such as an earthquake, wind storm, or hurricane, or after a fire in the dwelling;

(d) Homes being prepared for resale; or

(e) Roofing or siding contracts in which the homeowner was not directly solicited by a roofing or siding contractor or salesperson. If a roofing or siding contractor or roofing or siding salesperson generally does business by soliciting, it shall be a rebuttable presumption that any roofing or siding contract entered into with a homeowner shall have been the result of a solicitation.

(2) "Roofing or siding contractor" means a person who owns or operates a contracting business that purports to install, repair, or replace or subcontracts to install, repair, or replace residential roofing or siding.

(3) "Roofing or siding salesperson" means a person who solicits, negotiates, executes, or otherwise endeavors to procure a contract with a homeowner to install, repair, or replace residential roofing or siding on behalf of a roofing or siding contractor.

(4) "Residential roofing or siding" means roofing or siding installation, repair or replacement for an existing single-family dwelling or multiple family dwelling of four or less units, provided that this does not apply to a residence under construction.

(5) "Person" includes an individual, corporation, company, partnership, joint venture, or a business entity.

(6) "Siding" means material used to cover the exterior walls of a residential dwelling, excluding paint application.

(7)(a) "Solicit" means to initiate contact with the homeowner for the purpose of selling or installing roofing or siding by one of the following methods:

(i) Door-to-door contact;



- (ii) Telephone contact;
  - (iii) Flyers left at a residence; or
  - (iv) Other promotional advertisements which offer gifts, cash, or services if the homeowner contacts the roofing or siding contractor or salesperson, except for newspaper advertisements which offer a seasonal discount.
- (b) "Solicit" does not include:
- (i) Calls made in response to a request or inquiry by the homeowner; or
  - (ii) Calls made to homeowners who have prior business or personal contact with the residential roofing or siding contractor or salesperson.

**NEW SECTION. Sec. 3.** A roofing or siding contract shall be in writing. A copy of the contract shall be given to the homeowner at the time the homeowner signs the contract. The contract shall be typed or printed legibly and contain the following provisions:

- (1) An itemized list of all work to be performed;
- (2) The grade, quality, or brand name of materials to be used;
- (3) The dollar amount of the contract;
- (4) The name and address of the roofing or siding salesperson;
- (5) The name, address, and contractor's registration number of the roofing or siding contractor;
- (6) A statement as to whether all or part of the work is to be subcontracted to another person;
- (7) The contract shall require the homeowner to disclose whether he or she intends to obtain a loan in order to pay for all or part of the amount due under the contract;
- (8) If the customer indicates that he or she intends to obtain a loan to pay for a portion of the roofing or siding contract, the homeowner shall have the right to rescind the contract within three business days of receiving truth-in-lending disclosures or three business days of receiving written notification that the loan application was denied, whichever date is later; and
- (9) The contract shall provide the following notice in ten-point boldface type in capital letters:

**"CUSTOMER'S RIGHT TO CANCEL**

**IF YOU HAVE INDICATED IN THIS CONTRACT THAT YOU INTEND TO OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE WORK SPECIFIED IN THE CONTRACT, YOU HAVE THE RIGHT TO CHANGE YOUR MIND AND CANCEL THIS CONTRACT WITHIN THREE DAYS OF THE DATE WHEN THE LENDER PROVIDES YOU WITH YOUR TRUTH-IN-LENDING DISCLOSURE STATEMENT OR THE DATE WHEN YOU RECEIVE WRITTEN NOTIFICATION THAT YOUR LOAN WAS DENIED.**

**BE SURE THAT ALL PROMISES MADE BY YOUR CONTRACTOR ARE PUT IN WRITING BEFORE YOU SIGN THIS CONTRACT."**

**NEW SECTION. Sec. 4.** If the customer indicates that he or she intends to obtain a loan to pay for all or part of the cost of the roofing or siding contract, the roofing or siding contractor shall not begin work until after the homeowner's rescission rights provided in section 3(9) of this act have expired. If the roofing or siding contractor commences work under the contract before the homeowner's rescission rights have expired, the roofing or siding contractor or salesperson shall be prohibited from enforcing terms of the contract, including claims for labor or materials, in a court of law and shall terminate any security interest or statutory lien created under the transaction within twenty days of receiving written rescission of the contract from the customer.

**NEW SECTION. Sec. 5.** A person who purchases or is otherwise assigned a roofing or siding contract shall be subject to all claims and defenses with respect to the contract that the homeowner could assert against the siding or roofing contractor or salesperson. A person who sells or otherwise assigns a roofing or siding contract shall include a prominent notice of the potential liability under this section.

**NEW SECTION. Sec. 6.** The legislature finds and declares that a violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce as set forth under chapter 19.86 RCW.

**NEW SECTION. Sec. 7.** A roofing or siding contractor or salesperson who fails to comply with the requirements of this chapter shall be liable to the homeowner for any actual damages sustained by the person as a result of the failure. Nothing in this section shall limit any cause of action or remedy available under section 6 of this act or chapter 19.86 RCW.

**NEW SECTION. Sec. 8.** Sections 2 through 7 of this act shall constitute a new chapter in Title 19 RCW.

Passed the Senate March 10, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 286

[Substitute Senate Bill 6204]

## SEAWEED HARVESTING

AN ACT Relating to seaweed harvesting; amending RCW 79.01.805, 79.01.810, and 79.01.815; decodifying RCW 79.96.907; repealing RCW 79.01.820; prescribing penalties; and providing an effective date.

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

**Sec. 1.** RCW 79.01.805 and 1993 c 283 s 3 are each amended to read as follows:

(1) The maximum daily wet weight harvest or possession of seaweed for personal use from all ((private and public tidelands and state bedlands)) aquatic lands as defined under RCW 79.90.010 and all privately owned tidelands is ten pounds per person. The department of natural resources in cooperation with the department of ((fisheries)) fish and wildlife may establish seaweed harvest limits of less than ten pounds for conservation purposes. This section shall in no way affect the ability of any state agency to prevent harvest of any species of marine aquatic plant from lands under its control, ownership, or management.

(2) Except as provided under subsection (3) of this section, commercial harvesting of seaweed from aquatic lands as defined under RCW 79.90.010, and all privately owned tidelands is prohibited. This subsection shall in no way affect commercial seaweed aquaculture.

(3) Upon mutual approval by the department and the department of fish and wildlife, seaweed species of the genus *Macrocystis* may be commercially harvested for use in the herring spawn-on-kelp fishery.

(4) Seaweed species of the genus *Macrocystis* may not be imported after July 1, 1995, for use in the herring spawn-on-kelp fishery.

**Sec. 2.** RCW 79.01.810 and 1993 c 283 s 4 are each amended to read as follows:

~~((A violation of RCW 79.01.805 is an infraction under chapter 7.84 RCW, punishable by a penalty of one hundred dollars.))~~

It is unlawful to exceed the harvest and possession restrictions imposed under RCW 79.01.805. A violation of this section is a misdemeanor punishable in accordance with RCW 9.92.030, and a violation taking place on aquatic lands is subject to the provisions of RCW 79.01.760. A person committing a violation of this section on private tidelands which he or she owns is liable to the state for treble the amount of damages to the seaweed resource, and a person trespassing on private tidelands and committing a violation of this section is liable to the private tideland owner for treble the amount of damages to the seaweed resource. Damages recoverable include, but are not limited to, damages for the market value of the seaweed, for injury to the aquatic ecosystem, and for the costs of restoration. In addition, the person is liable for reimbursing the injured party for the party's reasonable costs, including but not limited to investigative costs and reasonable attorneys' fees and other litigation-related costs.

Sec. 3. RCW 79.01.815 and 1993 c 283 s 5 are each amended to read as follows:

The department of (~~fisheries~~) fish and wildlife and law enforcement authorities may enforce the provisions of RCW 79.01.805 and 79.01.810.

NEW SECTION. Sec. 4. RCW 79.01.820 and 1993 c 283 s 6 are each repealed.

NEW SECTION. Sec. 5. RCW 79.96.907 is decodified.

NEW SECTION. Sec. 6. This act shall take effect July 1, 1994.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 287**

[Substitute Senate Bill 6230]

**CHARITABLE ORGANIZATIONS—REVISIONS**

AN ACT Relating to business organizations; amending RCW 19.09.076, 19.09.100, 19.09.230, 19.77.090, 23B.01.570, 23B.14.200, 24.03.302, 24.03.388, 24.06.290, and 24.06.465; adding a new section to chapter 19.09 RCW; and prescribing penalties.

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

Sec. 1. RCW 19.09.076 and 1993 c 471 s 4 are each amended to read as follows:

The application requirements of RCW 19.09.075 do not apply to the following:

(1) Any charitable organization raising less than (~~five thousand dollars~~) an amount as set by rule adopted by the secretary in any accounting year when all the activities of the organization, including all fund raising activities, are carried on by persons who are unpaid for their services and no part of the charitable organization's assets or income inures to the benefit of or is paid to any officer or member of the organization;

(2) Any charitable organization located outside of the state of Washington if the organization files the following with the secretary:

(a) The registration documents required under the charitable solicitation laws of the state in which the charitable organization is located;

(b) The registration required under the charitable solicitation laws of the state of California and the state of New York; and

(c) Such federal income tax forms as may be required by rule of the secretary.

All entities soliciting charitable donations shall comply with the requirements of RCW 19.09.100.

Sec. 2. RCW 19.09.100 and 1993 c 471 s 9 are each amended to read as follows:

The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) A charitable organization, whether or not required to register pursuant to this chapter, that directly solicits contributions from the public in this state shall make the following clear and conspicuous disclosures at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The identity of the charitable organization and the city of the principal place of business of the charitable organization;

(c) If requested by the solicitee, the ~~((toll-free))~~ published number in the office of the secretary for the donor to obtain additional financial disclosure information on file with the secretary.

(2) A commercial fund raiser shall clearly and conspicuously disclose at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The name of the entity for which the fund raiser is an agent or employee and the name and city of the charitable organization for which the solicitation is being conducted; and

(c) If requested by the solicitee, the ~~((toll-free))~~ published number in the office of the secretary for the donor to obtain additional financial disclosure information on file with the secretary. The disclosure must be made during an oral solicitation of a contribution, and at the same time at which a written request for a contribution is made.

(3) A person or organization soliciting charitable contributions by telephone shall make the disclosures required under subsection (1) or (2) of this section in the course of the solicitation but prior to asking for a commitment for a contribution from the solicitee, and in writing to any solicitee that makes a pledge within five working days of making the pledge. If the person or organization sends any materials to the person or organization solicited before the receipt of any contribution, those materials shall include the disclosures required in subsection (1) or (2) of this section, whichever is applicable.

(4) In the case of a solicitation by advertisement or mass distribution, including posters, leaflets, automatic dialing machines, publication, and audio or video broadcasts, it shall be clearly and conspicuously disclosed in the body of the solicitation material that:

(a) The solicitation is conducted by a named commercial fund raiser, if it is;

(b) The notice of solicitation required by the charitable solicitation act is on file with the secretary's office; and

(c) The potential donor can obtain additional financial disclosure information at a ~~((toll-free))~~ published number in the office of the secretary.

(5) A container or vending machine displaying a solicitation must also display in a clear and conspicuous manner the name of the charitable organization for which funds are solicited, the name, ~~((residence))~~ business address, and

telephone number of the individual and any commercial fund raiser responsible for collecting funds placed in the containers or vending machines, and the following statement: "This charity is currently registered with the secretary's office under the charitable solicitation act, registration number . . . ."

(6) A commercial fund raiser shall not represent that tickets to any fund raising event will be donated for use by another person unless all the following requirements are met:

(a) The commercial fund raiser prior to conducting a solicitation has written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they will accept;

(b) The written commitments are kept on file by the commercial fund raiser for three years and are made available to the secretary, attorney general, or county prosecutor on demand;

(c) The contributions solicited for donated tickets may not be more than the amount representing the number of ticket commitments received from persons and kept on file under (a) of this subsection; and

(d) Not later than seven calendar days prior to the date of the event for which ticket donations are solicited, the commercial fund raiser shall give all donated tickets to the persons who made the written commitments to accept them.

(7) Each person or organization soliciting charitable contributions shall not represent orally or in writing that:

(a) The charitable contribution is tax deductible unless the charitable organization for which charitable contributions are being solicited or to which tickets for fund raising events or other services or goods will be donated, has applied for and received from the internal revenue service a letter of determination granting tax deductible status to the charitable organization;

(b) The person soliciting the charitable contribution is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor unless such person is unpaid for his or her services;

(c) The person soliciting the charitable contribution is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor if the person soliciting is employed, contracted, or paid by a commercial fund raiser.

(8) If the charitable organization is associated with, or has a name that is similar to, any unit of government each person or organization soliciting contributions shall disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government. This subsection does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name.

(9) No person may, in conducting any solicitation, use the name "police," "sheriff," "fire fighter," "firemen," or a similar name unless properly authorized by a bona fide police, sheriff, or fire fighter organization or police, sheriff, or fire department. A proper authorization shall be in writing and signed by two authorized officials of the organization or department and shall be filed with the secretary.

(10) A person may not, in conducting any solicitation, use the name of a federally chartered or nationally recognized military veterans' service organization as determined by the United States veterans' administration unless authorized in writing by the highest ranking official of that organization in this state.

(11) A charitable organization shall comply with all local governmental regulations that apply to soliciting for or on behalf of charitable organizations.

(12) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure.

(13) Solicitations shall not be conducted by a charitable organization or commercial fund raiser that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any other state or foreign country within the past ten years or has been subject to any permanent injunction or administrative order or judgment under RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

(14) No charitable organization or commercial fund raiser subject to this chapter may use or exploit the fact of registration under this chapter so as to lead the public to believe that registration constitutes an endorsement or approval by the state, but the use of the following is not deemed prohibited: "Currently registered with the Washington state secretary of state as required by law. Registration number . . . ."

(15) No entity may engage in any solicitation for contributions for or on behalf of any charitable organization or commercial fund raiser unless the charitable organization or commercial fund raiser is currently registered with the secretary.

(16) No entity may engage in any solicitation for contributions unless it complies with all provisions of this chapter.

(17)(a) No entity may place a telephone call for the purpose of charitable solicitation that will be received by the solicitee before eight o'clock a.m. or after nine o'clock p.m.

(b) No entity may, while placing a telephone call for the purpose of charitable solicitation, engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(18) Failure to comply with subsections (1) through (17) of this section is a violation of this chapter.

**Sec. 3.** RCW 19.09.230 and 1993 c 471 s 13 are each amended to read as follows:

No charitable organization, commercial fund raiser, or other entity may knowingly use the identical or deceptively similar name, symbol, or emblem of any other entity for the purpose of soliciting contributions from persons in this state without the written consent of such other entity. If the official name or the "doing business name" being registered is the same or deceptively similar as that of another entity, the secretary may request that a copy of the written consent from that entity be filed with the registration. Such consent may be deemed to have been given by anyone who is a director, trustee, or other authorized officer ~~((employee, agent, or commercial fund raiser of the charitable organization, and))~~ of that entity. A copy of the written consent must be kept on file by the charitable organization or commercial fund raiser and made available to the secretary, attorney general, or county prosecutor upon demand.

A person may be deemed to have used the name of another person for the purpose of soliciting contributions if such latter person's name is listed on any stationery, advertisement, brochure, or correspondence of the charitable organization or person or if such name is listed or represented to any one who has contributed to, sponsored, or endorsed the charitable organization or person, or its or his activities.

The secretary may revoke or deny any application for registration that violates this section.

**NEW SECTION.** **Sec. 4.** A new section is added to chapter 19.09 RCW to read as follows:

The secretary may waive penalties that have been set by rule and assessed by the secretary due from a registered charitable organization previously in good standing that would otherwise be penalized. A charitable organization desiring to seek relief under this section must, within fifteen days of discovery by its corporate officials, director, or other authorized officer of the missed filing or lapse, notify the secretary in writing. The notification must include the name and mailing address of the organization, the organization's officer to whom correspondence should be sent, and a statement under oath by a responsible officer of the organization, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. Upon receipt of the notice, the secretary shall investigate the circumstances of the missed filing or lapse. If the secretary is satisfied that sufficient exigent or mitigating circumstances exist, that the organization has demonstrated good faith and a reasonable attempt to comply with the applicable corporate statutes of this state, the secretary may issue an order allowing relief from the penalty. If the secretary determines the request does not comply with the requirements for relief, the secretary shall deny the relief and state the reasons for the denial.



Notwithstanding chapter 34.05 RCW, a denial of relief by the secretary is not reviewable.

**Sec. 5.** RCW 19.77.090 and 1982 c 35 s 184 are each amended to read as follows:

The secretary of state shall be the agent for service of process in any action relating to the registration of any registrant who is at the time of such service a nonresident or a foreign firm, corporation, association, union, or other organization without a resident of this state designated as the registrant's agent for service of record with the secretary of state, or who cannot be found in this state, and service of process, pleadings and papers in such action made upon the secretary of state shall be held as due and sufficient process upon the registrant. The secretary of state shall charge and collect ~~((a fee of twenty-five dollars))~~ an assessment, as set by rule by the secretary of state, at the time of any service of process upon the secretary of state under this section. The ~~((fee))~~ assessment may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action. The ~~((fee))~~ assessment shall be deposited in the secretary of state's revolving fund.

**Sec. 6.** RCW 23B.01.570 and 1991 c 72 s 30 are each amended to read as follows:

In the event any corporation, foreign or domestic, fails to file a full and complete initial report under RCW 23B.02.050(4) and 23B.16.220(3) or does business in this state without having paid its annual corporate license fee and without having filed a substantially complete annual report under RCW 23B.16.220(1) when either is due, there shall become due and owing the state of Washington a penalty ~~((of twenty-five dollars))~~ as established by rule by the secretary.

A corporation organized under this title may at any time prior to its dissolution as provided in RCW 23B.14.200, and a foreign corporation qualified to do business in this state may at any time prior to the revocation of its certificate of authority as provided in RCW 23B.15.300, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty ~~((specified in this section))~~ established by rule by the secretary.

**Sec. 7.** RCW 23B.14.200 and 1991 c 72 s 37 are each amended to read as follows:

The secretary of state may administratively dissolve a corporation under RCW 23B.14.210 if:

- (1) The corporation does not pay any license fees or penalties, imposed by this title, when they become due;
- (2) The corporation does not deliver its completed initial report or annual report to the secretary of state when it is due;
- (3) The corporation is without a registered agent or registered office in this state;

(4) The corporation does not notify the secretary of state that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;

(5) The corporation's period of duration stated in its articles of incorporation expired after July 1, 1990; or

(6) The corporation's period of duration stated in its articles of incorporation expired prior to July 1, 1990, but the corporation has timely paid all license fees imposed by this title and set by rule by the secretary, has timely filed annual reports with the secretary of state, has never been without a registered agent or registered office in this state for sixty days or more, and has never failed to notify the secretary of state of changes in a registered agent or registered office within sixty days of such change.

**Sec. 8.** RCW 24.03.302 and 1993 c 356 s 5 are each amended to read as follows:

A corporation shall be administratively dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

(1) Has failed to file or complete its annual report within the time required by law; or

(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or

(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its administrative dissolution if it completes and files a current annual report for the reinstatement year or if it appoints or maintains a registered agent, or if it files with the secretary of state a required statement of change of registered agent or registered office and in addition, if it pays a reinstatement fee ~~((of twenty-five dollars))~~ as set by rule by the secretary plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties established by rule by the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members.

**Sec. 9.** RCW 24.03.388 and 1993 c 356 s 9 are each amended to read as follows:

(1) An application processing fee as provided in RCW 24.03.405 shall be charged for an application for reinstatement under RCW 24.03.386.

(2) An application processing fee as provided in RCW 24.03.405 shall be charged for each amendment or supplement to an application for reinstatement.

(3) The corporation seeking reinstatement shall file a current annual report and pay the full amount of all annual corporation fees which would have been assessed for the years of the period of administrative revocation, had the corporation been in active status, including the reinstatement year, plus any penalties as established by rule by the secretary.

**Sec. 10.** RCW 24.06.290 and 1993 c 356 s 18 are each amended to read as follows:

Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

A corporation shall be dissolved by the secretary of state upon the conditions prescribed in this section when the corporation:

- (1) Has failed to file or complete its annual report within the time required by law;
- (2) Has failed for thirty days to appoint or maintain a registered agent in this state; or
- (3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

A corporation which has been dissolved by operation of this section may be reinstated within a period of three years following its dissolution if it ~~((shall file or))~~ completes and files a current annual report~~((,-appoint and maintain))~~ for the current reinstatement year or it appoints or maintains a registered agent, or files a required statement of change of registered agent or registered office and in addition pays the reinstatement fee ~~((of twenty-five dollars plus any other fees that may be due or owing the secretary of state including the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year))~~ as set by rule by the secretary of state, plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties as established by rule by the secretary of state. If during the period of dissolution another person or corporation has reserved or adopted a corporate name which is identical or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its

articles accordingly. When a corporation has been dissolved by operation of this section, remedies available to or against it shall survive in the manner provided by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders.

**Sec. 11.** RCW 24.06.465 and 1969 ex.s. c 120 s 93 are each amended to read as follows:

Each corporation, domestic or foreign, which fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty (~~(of five dollars to be)~~) as established and assessed by the secretary of state.

Each corporation, domestic or foreign, which fails or refuses to answer truthfully and fully within the time prescribed by this chapter any interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 288

[Engrossed Second Substitute Senate Bill 6255]

### GUARDIANSHIP AND PLACEMENT OF DEPENDENT CHILDREN

AN ACT Relating to permanency planning and guardianship for dependent children; and amending RCW 13.34.030, 13.34.120, 74.14C.070, 13.34.130, 13.34.145, 13.34.231, 13.34.232, 13.34.233, 13.34.234, and 13.34.236.

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

**Sec. 1.** RCW 13.34.030 and 1993 c 241 s 1 are each amended to read as follows:

For purposes of this chapter:

(1) "Child" and "juvenile" means any individual under the age of eighteen years~~(±)~~.

(2) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until the child returns home, an adoption decree or guardianship order is entered, or the dependency is dismissed, whichever occurs soonest. If the most recent date of removal occurred prior to the filing of a dependency petition under this chapter or after filing but prior to entry of a disposition order, such time periods shall be included when calculating the length of a child's current placement episode.

(3) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to RCW 13.34.232 for the limited purpose of assisting the court in the supervision of the dependency.

(4) "Dependent child" means any child:

(a) Who has been abandoned; that is, where the child's parent, guardian, or other custodian has evidenced either by statement or conduct, a settled intent to forego, for an extended period, all parental rights or all parental responsibilities despite an ability to do so;

(b) Who is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child;

(c) Who has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development; or

(d) Who has a developmental disability, as defined in RCW 71A.10.020 and whose parent, guardian, or legal custodian together with the department determines that services appropriate to the child's needs can not be provided in the home. However, (a), (b), and (c) of this subsection may still be applied if other reasons for removal of the child from the home exist(+).

~~((3))~~ (5) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

(6) "Guardian ad litem" means a person, appointed by the court to represent the best interest of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter(+).

~~((4))~~ (7) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

(8) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

(9) "Preventive services" means family preservation services, as defined in RCW 74.14C.010, and other reasonably available services capable of preventing the need for out-of-home placement while protecting the child.

**Sec. 2.** RCW 13.34.120 and 1993 c 412 s 8 are each amended to read as follows:

(1) To aid the court in its decision on disposition, a social study, consisting of a written evaluation of matters relevant to the disposition of the case, shall be made by the person or agency filing the petition. The study shall include all social records and may also include facts relating to the child's cultural heritage, and shall be made available to the court. The court shall consider the social file, social study, guardian ad litem report, the court-appointed special advocates report, if any, and any reports filed by a party at the disposition hearing in addition to evidence produced at the fact-finding hearing. At least ten working days before the disposition hearing, the department shall mail to the parent and his or her attorney a copy of the agency's social study and proposed service plan, which shall be in writing or in a form understandable to the parents or custodians. In addition, the department shall provide an opportunity for parents to review and comment on the plan at the community service office. If the parents disagree with the agency's plan or any part thereof, the parents shall submit to the court at least twenty-four hours before the hearing, in writing, or signed oral statement, an alternative plan to correct the problems which led to the finding of dependency. This section shall not interfere with the right of the parents or custodians to submit oral arguments regarding the disposition plan at the hearing.

(2) In addition to the requirements set forth in subsection (1) of this section, a predisposition study to the court in cases of dependency alleged pursuant to RCW 13.34.030(2) (b) or (c) shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific programs, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such programs are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs which have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal. This section should include an exploration of the nature of the parent-child attachment and the meaning of separation and loss to both the parents and the child;

(e) A description of the steps that will be taken to minimize harm to the child that may result if separation occurs; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

**Sec. 3.** RCW 74.14C.070 and 1992 c 214 s 9 are each amended to read as follows:

After July 1, 1993, the secretary of social and health services, or the secretary's regional designee, may transfer funds appropriated for foster care services to purchase family preservation services and other preventive services for children at imminent risk of foster care placement. The secretary shall notify the appropriate committees of the senate and house of representatives of any transfers under this section. The secretary shall include caseload, expenditure, cost avoidance, identified improvements to the foster care system, and outcome data related to the transfer in the notification.

**Sec. 4.** RCW 13.34.130 and 1992 c 145 s 14 are each amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, (~~as now or hereafter amended~~;) it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030(~~(2)~~); after consideration of the predisposition report prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In selecting a program, the court should choose those services that least interfere with family autonomy, provided that the services are adequate to protect the child.

(b) Order that the child be removed from his or her home and ordered into the custody, control, and care of a relative or the department of social and health services or a licensed child placing agency for placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to chapter 74.15 RCW. Unless there is reasonable cause to believe that the safety or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home



placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

- (i) There is no parent or guardian available to care for such child;
- (ii) The parent, guardian, or legal custodian is not willing to take custody of the child;
- (iii) A manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger; or
- (iv) The extent of the child's disability is such that the parent, guardian, or legal custodian is unable to provide the necessary care for the child and the parent, guardian, or legal custodian has determined that the child would benefit from placement outside of the home.

(2) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the court finds it is recommended by the supervising agency, that it is in the best interests of the child and that it is not reasonable to provide further services to reunify the family because the existence of aggravated circumstances make it unlikely that services will effectuate the return of the child to the child's parents in the near future. In determining whether aggravated circumstances exist, the court shall consider one or more of the following:

- (a) Conviction of the parent of rape of the child in the first, second, or third degree as defined in RCW 9A.44.073, 9A.44.076, and 9A.44.079;
- (b) Conviction of the parent of criminal mistreatment of the child in the first or second degree as defined in RCW 9A.42.020 and 9A.42.030;
- (c) Conviction of the parent of one of the following assault crimes, when the child is the victim: Assault in the first or second degree as defined in RCW 9A.36.011 and 9A.36.021 or assault of a child in the first or second degree as defined in RCW 9A.36.120 or 9A.36.130;
- (d) Conviction of the parent of murder, manslaughter, or homicide by abuse of the child's other parent, sibling, or another child;
- (e) A finding by a court that a parent is a sexually violent predator as defined in RCW 71.09.020;
- (f) Failure of the parent to complete available treatment ordered under this chapter or the equivalent laws of another state, where such failure has resulted in a prior termination of parental rights to another child and the parent has failed to effect significant change in the interim.

(3) Whenever a child is ordered removed from the child's home, the agency charged with his or her care shall provide the court with:

- (a) ~~((A permanent plan of care that may include one of the following: Return of the child to the home of the child's parent, adoption, guardianship, or long-term placement with a relative or in foster care with a written agreement.))~~  
A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return

of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider.

(b) Unless the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, and what actions the agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The agency plan shall specify what services the parents will be offered in order to enable them to resume custody, what requirements the parents must meet in order to resume custody, and a time limit for each service plan and parental requirement.

(ii) The agency shall be required to encourage the maximum parent-child contact possible, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The agency charged with supervising a child in placement shall provide all reasonable services that are available within the agency, or within the community, or those services which the department of social and health services has existing contracts to purchase. It shall report to the court if it is unable to provide such services.

(c) If the court has ordered, pursuant to subsection (2) of this section, that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The agency shall not be required to develop a plan of services for the parents or provide services to the parents.

(4) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child

including, but not limited to, court orders regarding parent-child contacts and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

(5) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first, at a hearing in which it shall be determined whether court supervision should continue. The review shall include findings regarding the agency and parental completion of disposition plan requirements, and if necessary, revised permanency time limits.

(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in this section no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) If the child is not returned home, the court shall establish in writing:

(i) Whether reasonable services have been provided to or offered to the parties to facilitate reunion, specifying the services provided or offered;

(ii) Whether the child has been placed in the least-restrictive setting appropriate to the child's needs, including whether consideration has been given to placement with the child's relatives;

(iii) Whether there is a continuing need for placement and whether the placement is appropriate;

(iv) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(v) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(vi) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(vii) Whether additional services are needed to facilitate the return of the child to the child's parents; if so, the court shall order that reasonable services be offered specifying such services; and

(viii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(c) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

**Sec. 5.** RCW 13.34.145 and 1993 c 412 s 1 are each amended to read as follows:

(1) ~~(In all cases where a child has been placed in substitute care for at least fifteen months, the agency having custody of the child shall prepare a permanen-~~

ey plan and present it in a hearing held before the court no later than eighteen months following commencement of the placement episode.

~~(2) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(5). In addition the court shall: (a) Approve a permanency plan which shall include one of the following: Adoption, guardianship, placement of the child in the home of the child's parent, relative placement with written permanency plan, or family foster care with written permanency agreement; (b) require filing of a petition for termination of parental rights; or (c) dismiss the dependency, unless the court finds, based on clear, cogent, and convincing evidence, that it is in the best interest of the child to continue the dependency beyond eighteen months, based on the permanency plan. Extensions may only be granted in increments of twelve months or less.)~~ A permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(a) Whenever a child is placed in out-of-home care pursuant to RCW 13.34.130, the agency that has custody of the child shall provide the court with a written permanency plan of care directed towards securing a safe, stable, and permanent home for the child as soon as possible. The plan shall identify one of the following outcomes as the primary goal and may also identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; or long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider.

(b) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months.

(2)(a) For children ten and under, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) For children over ten, a permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least fifteen months and an adoption decree or guardianship order has not previously been entered. The hearing shall take place no later than eighteen months following commencement of the current placement episode.

(3) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home

care, a permanency planning hearing shall take place no later than twelve or eighteen months, as provided in subsection (2) of this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree or guardianship order is entered, or the dependency is dismissed.

(4) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(5) At the permanency planning hearing, the court shall enter findings as required by RCW 13.34.130(5) and shall review the permanency plan prepared by the agency. If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate. In cases where the primary permanency planning goal has not yet been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. In all cases, the court shall:

(a)(i) Order the permanency plan prepared by the agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(6) If the court orders the child returned home, casework supervision shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.130(5), and the court shall determine the need for continued intervention.

(7) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(8) Except as otherwise provided in RCW 13.34.235, the status of all dependent children shall continue to be reviewed by the court at least once every six months, in accordance with RCW 13.34.130(5), until the dependency is dismissed. Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(9) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of

dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(10) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights.

(11) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 6. RCW 13.34.231 and 1981 c 195 s 2 are each amended to read as follows:

At the hearing on a dependency guardianship petition, all parties have the right to present evidence and cross examine witnesses. The rules of evidence apply to the conduct of the hearing. A guardianship ~~((may))~~ shall be established if the court finds by a preponderance of the evidence that:

(1) The child has been found to be a dependent child under RCW 13.34.030~~((2))~~;

(2) A dispositional order has been entered pursuant to RCW 13.34.130;

(3) The child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency under RCW 13.34.030~~((2))~~;

(4) The services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided;

(5) There is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) A guardianship, rather than termination of the parent-child relationship or continuation of ~~((the child's current dependent status))~~ efforts to return the child to the custody of the parent, would be in the best interest of the ~~((family))~~ child.

Sec. 7. RCW 13.34.232 and 1993 c 412 s 4 are each amended to read as follows:

(1) If the court has made a finding under RCW 13.34.231, it shall enter an order establishing a dependency guardianship for the child. The order shall:

~~((1))~~ (a) Appoint a person or agency to serve as dependency guardian for the limited purpose of assisting the court to supervise the dependency;

~~((2))~~ (b) Specify the dependency guardian's rights and responsibilities concerning the care, custody, and control of the child. A dependency guardian shall not have the authority to consent to the child's adoption;

~~((3))~~ (c) Specify the dependency guardian's authority, if any, to receive, invest, and expend funds, benefits, or property belonging to the child;

(d) Specify an appropriate frequency of visitation between the parent and the child; and

~~((4))~~ (e) Specify the need for any continued involvement of the supervising agency and the nature of that involvement, if any.

~~(The order shall not affect the child's status as a dependent child, and the child shall remain dependent for the duration of the guardianship.)~~

(2) Unless the court specifies otherwise in the guardianship order, the dependency guardian shall maintain the physical custody of the child and have the following rights and duties:

(a) Protect, discipline, and educate the child;

(b) Provide food, clothing, shelter, education as required by law, and routine health care for the child;

(c) Consent to necessary health and surgical care and sign a release of health care information to appropriate authorities, pursuant to law;

(d) Consent to social and school activities of the child; and

(e) Provide an annual written accounting to the court regarding receipt by the dependency guardian of any funds, benefits, or property belonging to the child and expenditures made therefrom.

(3) As used in this section, the term "health care" includes, but is not limited to, medical, dental, psychological, and psychiatric care and treatment.

(4) The child shall remain dependent for the duration of the guardianship. While the guardianship remains in effect, the dependency guardian shall be a party to any dependency proceedings pertaining to the child.

(5) The guardianship shall remain in effect only until the child is eighteen years of age or until the court terminates the guardianship order, whichever occurs sooner.

**Sec. 8.** RCW 13.34.233 and 1981 c 195 s 4 are each amended to read as follows:

(1) Any party may ~~((seek a modification of the))~~ request the court to modify or terminate a dependency guardianship order under RCW 13.34.150. Notice of any motion to modify or terminate the guardianship shall be served on all other parties, including any agency that was responsible for supervising the child's placement at the time the guardianship petition was filed. Notice shall in all cases be served upon the department of social and health services. If the department was not previously a party to the guardianship proceeding, the department shall nevertheless have the right to initiate a proceeding to modify or terminate a guardianship and the right to intervene at any stage of such a proceeding.

(2) The guardianship may be modified or terminated upon the motion of any party or the department if the court finds by a preponderance of the evidence that there has been a change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the

guardianship. Unless all parties agree to entry of an order modifying or terminating the guardianship, the court shall hold a hearing on the motion.

(3) Upon entry of an order terminating the guardianship, the dependency guardian shall not have any rights or responsibilities with respect to the child and shall not have legal standing to participate as a party in further dependency proceedings pertaining to the child. The court may allow the child's dependency guardian to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

(4) Upon entry of an order terminating the guardianship, the child shall remain dependent and the court shall either return the child to the child's parent or order the child into the custody, control, and care of the department of social and health services or a licensed child-placing agency for placement in a foster home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to such chapter. The court shall not place a child in the custody of the child's parent unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists and that such placement is in the child's best interest. The court shall thereafter conduct reviews as provided in RCW 13.34.130(5) and, where applicable, shall hold a permanency planning hearing in accordance with RCW 13.34.145.

**Sec. 9.** RCW 13.34.234 and 1981 c 195 s 5 are each amended to read as follows:

Establishment of a dependency guardianship under RCW 13.34.231 and 13.34.232 does not preclude ((~~and~~)) the dependency guardian from receiving foster care payments.

**Sec. 10.** RCW 13.34.236 and 1981 c 195 s 7 are each amended to read as follows:

(1) Any person over the age of twenty-one years who is not otherwise disqualified by this section, any nonprofit corporation, or any Indian tribe may be appointed the dependency guardian of a child under RCW 13.34.232. No person is qualified to serve as a dependency guardian ((~~who: (1) is of unsound mind; (2) has been convicted of a felony or misdemeanor involving moral turpitude; or (3) is a person whom the court finds unsuitable~~)) unless the person meets the minimum requirements to care for children as provided in RCW 74.15.030.

(2) If the preferences of a child's parent were not considered under RCW 13.34.260 as they relate to the proposed dependency guardian, the court shall consider such preferences before appointing the dependency guardian.

Passed the Senate March 9, 1994.

Passed the House March 9, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.



**CHAPTER 289**

[Senate Bill 6266]

**SEWER DISTRICTS—COMMISSIONERS OF MERGED DISTRICTS**

AN ACT Relating to sewer district commissioners; and amending RCW 56.32.110.

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

**Sec. 1.** RCW 56.32.110 and 1975 1st ex.s. c 86 s 8 are each amended to read as follows:

If at the election a majority of the voters of the merging sewer district shall vote in favor of the merger, the county canvassing board of the county the auditor of which conducted the election shall so declare in its canvass and the return of the election shall be made within ten days after the date thereof. Upon the return the merger shall be effective and the merging sewer district shall cease to exist and shall become a part of the merger sewer district. The sewer commissioners of the merging district shall ~~((cease to hold office and the affairs of the merged districts shall be managed by the sewer commissioners of the merger district.))~~ hold office as commissioners of the new consolidated sewer district until their respective terms of office expire or until they resign from office or these positions otherwise become vacant. If such a resignation or vacancy occurs, a person shall not be appointed to fill the vacancy.

Passed the Senate March 6, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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**CHAPTER 290**

[Substitute Senate Bill 6278]

**HOTEL-MOTEL TAX—BAKER BAY, COUNTIES MADE UP ENTIRELY OF ISLANDS—  
PROCEEDS USE FOR SPECIAL EVENTS, RESTROOM FACILITIES**

AN ACT Relating to public facilities; reenacting and amending RCW 67.28.210; and creating a new section.

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

**Sec. 1.** RCW 67.28.210 and 1993 c 197 s 1 and 1993 c 46 s 1 are each reenacted and amended to read as follows:

All taxes levied and collected under RCW 67.28.180, 67.28.240, and 67.28.260 shall be credited to a special fund in the treasury of the county or city imposing such tax. Such taxes shall be levied only for the purpose of paying all or any part of the cost of acquisition, construction, or operating of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purpose or purposes under this chapter, or to pay for advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist

expansion when a county or city has imposed such tax for such purpose, or as one of the purposes hereunder, and until withdrawn for use, the moneys accumulated in such fund or funds may be invested in interest bearing securities by the county or city treasurer in any manner authorized by law. In addition such taxes may be used to develop strategies to expand tourism: PROVIDED, That any county, and any city within a county, bordering upon Grays Harbor may use the proceeds of such taxes for construction and maintenance of a movable tall ships tourist attraction in cooperation with a tall ships restoration society, except to the extent that such proceeds are used for payment of principal and interest on debt incurred prior to June 11, 1986: PROVIDED FURTHER, That any city or county may use the proceeds of such taxes for the refurbishing and operation of a steam railway for tourism promotion purposes: PROVIDED FURTHER, That any city bordering on the Pacific Ocean or on Baker Bay with a population of not less than ~~((one thousand))~~ eight hundred and the county in which such a city is located may use the proceeds of such taxes for funding special events or festivals, or promotional infrastructures including but not limited to an ocean beach boardwalk: PROVIDED FURTHER, That any county which imposes a tax under RCW 67.28.182 or any city with a population less than fifty thousand in such county may use the proceeds of the tax levied and collected under RCW 67.28.180 to provide public restroom facilities available to and intended for use by visitors: PROVIDED FURTHER, That any county made up entirely of islands, ((city or town, if the)) and any city or town that has a population less than five thousand, may use the proceeds of the tax levied and collected under RCW 67.28.180 to provide public restroom facilities available to and intended for use by visitors.

**NEW SECTION. Sec. 2.** Any county that commenced use of the proceeds of the tax levied and collected under RCW 67.28.180 to provide public restroom facilities, prior to March 10, 1994, may continue to use such proceeds until the facilities are completed or December 31, 1995, whichever date is earlier.

This section expires January 1, 1996.

Passed the Senate March 10, 1994.

Passed the House March 10, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 291

[Engrossed Senate Bill 6284]

### REAL ESTATE BROKER'S OR SALESPERSON'S LICENSE—REQUIREMENTS

AN ACT Relating to the requirements to obtain a real estate broker's or salesperson's license; amending RCW 18.85.090, 18.85.095, 18.85.215, and 18.85.097; and providing an effective date.

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

Sec. 1. RCW 18.85.090 and 1985 c 162 s 1 are each amended to read as follows:

~~(The commission shall be responsible for the preparation of the examination to be submitted to applicants, and shall make and file with the director a list, which may be signed by a majority of the members of the commission conducting the examination, of all applicants who successfully passed the examination and of those who failed.~~

~~Any applicant who fails to pass the examination may apply again.~~

~~No applicant shall be permitted to take the examination for a real estate broker's license without first satisfying the director that the applicant:~~

~~(1) Has had a minimum of two years of actual experience as a full time real estate salesman in this state or in another state having comparable requirements within the five years previous to applying for said examination or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified, by reason of practical experience in a business allied with or related to real estate;~~

~~(2) Is eighteen years of age or older;~~

~~(3) Has a high school diploma or its equivalent;~~

~~(4) Has furnished proof, as the director may require, that the applicant has completed successfully ninety clock hours of instruction in real estate. Instruction must include one course in brokerage management and one course in real estate law. Each course must be at least thirty clock hours. Courses must be completed within five years prior to applying for the examination.~~

~~The requirements of subsections (1) through (4) of this section shall not apply to persons who are licensed as brokers under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked: PROVIDED, That requirements for brokers created by this 1972 amendatory act shall apply to any person who is licensed as a salesman on or before May 23, 1972, if such person shall apply to become a broker or associate broker after May 23, 1972.)~~ (1) The minimum requirements for an individual to receive a broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Has had a minimum of two years of actual experience as a full-time real estate salesperson in this state or in another state having comparable requirements within the five years previous to applying for the broker's license examination or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified by reason of practical experience in a business allied with or related to real estate;

(d) Except as provided in RCW 18.85.097, has furnished proof, as the director may require, that the applicant has successfully completed one hundred twenty hours of instruction in real estate. Instruction must include one course in brokerage management, one course in real estate law, one course in business management, and one elective course. Each course must be completed within

five years prior to applying for the broker's license examination, be at least thirty clock hours, and be approved by the director. The applicant must pass a course examination, approved by the director for each course used to satisfy the broker's license requirement; and

(e) Has passed the broker's license examination.

(2) Nothing in this section applies to persons who are licensed as brokers under any real estate law in Washington that exists prior to this law's enactment, but only if their license has not been subsequently canceled or revoked.

Sec. 2. RCW 18.85.095 and 1988 c 205 s 3 are each amended to read as follows:

~~((1) It is hereby established that the minimum requirements for an individual to receive a salesperson's license are that the individual:~~

~~(a) Is eighteen years of age or older;~~

~~(b) Has passed a salesperson's examination; and~~

~~(c) Except as provided in RCW 18.85.097, has successfully completed a thirty clock hour course in real estate fundamentals prior to obtaining a first real estate license.~~

~~(2) Except as provided in RCW 18.85.097, no licensed salesperson shall have his or her license renewed a second time unless he or she furnishes proof, as the director may require, that he or she has successfully completed an additional thirty clock hours of instruction in real estate courses approved by the director. This subsection shall expire January 1, 1991.~~

~~Nothing in this section shall apply to persons who are licensed as salespersons under any real estate license law in Washington which exists prior to this law's enactment and whose license has not been subsequently revoked.)) (1) The minimum requirements for an individual to receive a salesperson's license are that the individual:~~

(a) Is eighteen years of age or older;

(b) Except as provided in RCW 18.85.087, has furnished proof, as the director may require, that the applicant has successfully completed a sixty clock-hour course, approved by the director, in real estate fundamentals. The applicant must pass a course examination approved by the director. This course must be completed within five years prior to applying for the salesperson's license examination; and

(c) Has passed a salesperson's license examination.

(2) The minimum requirements for a salesperson to be issued the first renewal of a license are that the salesperson:

(a) Has furnished proof, as the director may require, that the salesperson has successfully completed a thirty clock-hour course, from a prescribed curriculum approved by the director, in real estate practices. The salesperson must pass a course examination approved by the director. This course shall be commenced after issuance of a first license; and

(b) Has furnished proof, as the director may require, that the salesperson has completed an additional thirty clock hours of continuing education in compliance

with RCW 18.85.165. Courses for continuing education clock-hour credit shall be commenced after issuance of a first license.

(3) Nothing in this section applies to persons who are licensed as salespersons under any real estate law in Washington which exists prior to this law's enactment, but only if their license has not been subsequently canceled or revoked.

Sec. 3. RCW 18.85.215 and 1988 c 205 s 4 are each amended to read as follows:

(1) Any license issued under this chapter and not otherwise revoked shall be deemed "inactive" at any time it is delivered to the director. Until reissued under this chapter, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be renewed on the same terms and conditions as an active license, except that a person with an inactive license need not comply with the ~~((continuing))~~ education requirements of RCW 18.85.095(2)(a) or 18.85.165. Failure to renew shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with this chapter and the rules adopted pursuant thereto. ~~((Subject to RCW 18.85.097.))~~ If a holder has an inactive license for more than three years, the holder must show proof of successfully completing a thirty clock hour course in real estate within one year prior to the application for active status. Holders employed by the state and conducting real estate transactions on behalf of the state are exempt from this course requirement.

(4) The provisions of this chapter relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

Sec. 4. RCW 18.85.097 and 1987 c 332 s 18 are each amended to read as follows:

~~((The director may waive the thirty clock hour requirements in RCW 18.85.095 and 18.85.215 if the director makes a determination that the individual is otherwise and similarly qualified by reason of practical experience in a business allied with or related to real estate))~~ The director may allow for substitution of the clock-hour requirements in RCW 18.85.090(1)(d) and RCW 18.85.095(1)(b), if the director makes a determination that the individual is otherwise and similarly qualified by reason of completion of equivalent educational coursework in any institution of higher education as defined in RCW 28B.10.016 or any degree-granting institution as defined in RCW 28B.85.010 approved by the director. The director shall establish by rule, guidelines for determining equivalent educational coursework.

NEW SECTION. Sec. 5. This act shall take effect July 1, 1995.

Passed the Senate March 6, 1994.

Passed the House March 1, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

**CHAPTER 292**

[Substitute Senate Bill 6428]

**PUBLIC WATER SYSTEMS IN RECEIVERSHIP—ACQUISITION BY  
OTHER SYSTEMS**

AN ACT Relating to water systems; amending RCW 57.04.050 and 43.70.195; reenacting and amending RCW 84.09.030; adding a new section to chapter 35.13A RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.94 RCW; adding a new section to chapter 57.24 RCW; adding a new section to chapter 80.28 RCW; adding a new section to chapter 54.16 RCW; adding a new section to chapter 87.03 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the monitoring and treatment requirements of the federal safe drinking water act place increasing burdens and cost on public water supply systems, especially smaller systems and rural systems. Across the state, those systems are turning to existing systems and their county governments for help, which may include assumption of the system.

It is the intent of the legislature to encourage larger existing systems to assist or acquire troubled systems or those systems burdened by federal requirements, to provide financial protection for that assistance, and to protect receivers of failed water systems.

Sec. 2. RCW 57.04.050 and 1990 c 259 s 28 are each amended to read as follows:

Upon entry of the findings of the final hearing on the petition if one or more county legislative authorities find that the proposed district will be conducive to the public health, welfare, and convenience and be of special benefit to the land therein, they shall call a special election by presenting a resolution to the county auditor at least forty-five days prior to the proposed election date. A special election will be held on a date decided by the commissioners in accordance with RCW 29.13.010 and 29.13.020. The commissioners shall cause to be published a notice of the election for four successive weeks in a newspaper of general circulation in the proposed district, which notice shall state the hours during which the polls will be open, the boundaries of the district as finally adopted and the object of the election, and the notice shall also be posted for ten days in ten public places in the proposed district. In submitting the proposition to the voters, it shall be expressed on the ballots in the following terms:

- Water District . . . . . YES
- Water District . . . . . NO

giving the name of the district as provided in the petition.

At the same election a proposition shall be submitted to the voters, for their approval or rejection, authorizing the water district, if formed, to levy at the earliest time permitted by law on all property located in the district a general tax for one year, in excess of the limitations provided by law, in the amount specified in the petition to create the district, not to exceed one dollar and twenty-five cents per thousand dollars of assessed value, for general preliminary expenses of the district(~~(, the proposition to)~~). The proposition may not appear at the September or November election. The proposition shall be expressed on the ballots in the following terms:

- One year . . . . . dollars and . . . . . cents per thousand  
dollars of assessed value tax . . . . . YES
- One year . . . . . dollars and . . . . . cents per thousand  
dollars of assessed value tax . . . . . NO

Such proposition to be effective must be approved (~~(by a majority of at least three-fifths of the registered voters thereof voting on the proposition)~~) in the manner set forth in Article VII, section 2(a) of the Constitution of this state, as amended by Amendment 59 and as thereafter amended.

**Sec. 3.** RCW 43.70.195 and 1990 c 133 s 4 are each amended to read as follows:

(1) In any action brought by the secretary of health or by a local health officer pursuant to chapter 7.60 RCW to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. The department shall maintain a list of interested and qualified individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in the provision of water service and a history of satisfactory operation of a water system. If there is no other person willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver. The county may designate a county agency to operate the system, or it may contract with another individual or public water system to provide management for the system. If the county is appointed as receiver, the secretary of health and the county health officer shall provide regulatory oversight for the agency or other person responsible for managing the water system.

(2) In any petition for receivership under subsection (1) of this section, the department shall recommend that the court grant to the receiver full authority to act in the best interests of the customers served by the public water system. The receiver shall assess the capability, in conjunction with the department and local government, for the system to operate in compliance with health and safety standards, and shall report to the court and the petitioning agency its recommendations for the system's future operation, including the formation of a water

district or other public entity, or ownership by another existing water system capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate departmental official allege an immediate and serious danger to residents constituting an emergency, the court shall set the matter for hearing within three days and may appoint a temporary receiver ex parte upon the strength of such petition and affidavit pending a full evidentiary hearing, which shall be held within fourteen days after receipt of the petition.

(4) A bond, if any is imposed upon a receiver, shall be minimal and shall reasonably relate to the level of operating revenue generated by the system. Any receiver appointed pursuant to this section shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.

(5) The court shall authorize the receiver to impose reasonable assessments on a water system's customers to recover expenditures for improvements necessary for the public health and safety.

(6) No later than twelve months after appointment of a receiver, the petitioning agency, in conjunction with the county in which the system is located, and the appropriate state and local health agencies, shall develop and present to the court a plan for the disposition of the system. The report shall include the recommendations of the receiver made pursuant to subsection (2) of this section. The report shall include all reasonable and feasible alternatives. After receiving the report, the court shall provide notice to interested parties and conduct such hearings as are necessary. The court shall then order the parties to implement one of the alternatives, or any combination thereof, for the disposition of the system. Such order shall include a date, or proposed date, for the termination of the receivership. Nothing in this section authorizes a court to require a city, town, public utility district, water district, or irrigation district to accept a system that has been in receivership unless the city, town, public utility district, water district, or irrigation district agrees to the terms and conditions outlined in the plan adopted by the court.

(7) The court shall not terminate the receivership, and order the return of the system to the owners, unless the department of health approves of such an action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an



evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value.

**Sec. 4.** RCW 84.09.030 and 1989 c 378 s 8 and 1989 c 217 s 1 are each reenacted and amended to read as follows:

Except as follows, the boundaries of counties, cities and all other taxing districts, for purposes of property taxation and the levy of property taxes, shall be the established official boundaries of such districts existing on the first day of March of the year in which the property tax levy is made.

The official boundaries of a newly incorporated taxing district shall be established at a different date in the year in which the incorporation occurred as follows:

(1) Boundaries for a newly incorporated city shall be established on the last day of March of the year in which the initial property tax levy is made, and the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was incorporated within its boundaries shall be altered as of this date to exclude this area, if the budget for the newly incorporated city is filed pursuant to RCW 84.52.020 and the levy request of the newly incorporated city is made pursuant to RCW 84.52.070. Whenever a proposed city incorporation is on the March special election ballot, the county auditor shall submit the legal description of the proposed city to the department of revenue on or before the first day of March;

(2) Boundaries for a newly incorporated port district shall be established on the first day of October if the boundaries of the newly incorporated port district are coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year;

(3) Boundaries of any other newly incorporated taxing district shall be established on the first day of June of the year in which the property tax levy is made if the taxing district has boundaries coterminous with the boundaries of another taxing district, as they existed on the first day of March of that year;

(4) Boundaries for a newly incorporated water district shall be established on the fifteenth of June of the year in which the proposition under RCW 57.04.050 authorizing a water district excess levy is approved.

The boundaries of a taxing district shall be established on the first day of June if territory has been added to, or removed from, the taxing district after the first day of March of that year with boundaries coterminous with the boundaries of another taxing district as they existed on the first day of March of that year. However, the boundaries of a road district, library district, or fire protection district or districts, that include any portion of the area that was annexed to a city or town within its boundaries shall be altered as of this date to exclude this area. In any case where any instrument setting forth the official boundaries of any newly established taxing district, or setting forth any change in such boundaries,

is required by law to be filed in the office of the county auditor or other county official, said instrument shall be filed in triplicate. The officer with whom such instrument is filed shall transmit two copies to the county assessor.

No property tax levy shall be made for any taxing district whose boundaries are not established as of the dates provided in this section.

**NEW SECTION.** Sec. 5. A new section is added to chapter 35.13A RCW to read as follows:

A city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 6. A new section is added to chapter 35A.21 RCW to read as follows:

A code city assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the city has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 7. A new section is added to chapter 36.94 RCW to read as follows:

A county assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the county has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming

responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 8. A new section is added to chapter 57.24 RCW to read as follows:

A water district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 9. A new section is added to chapter 80.28 RCW to read as follows:

A water company assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the water company has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 10. A new section is added to chapter 54.16 RCW to read as follows:

A public utility district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the public utility district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

**NEW SECTION.** Sec. 11. A new section is added to chapter 87.03 RCW to read as follows:

An irrigation district assuming responsibility for a water system that is not in compliance with state or federal requirements for public drinking water systems, and its agents and employees, are immune from lawsuits or causes of action, based on non-compliance with state or federal requirements for public drinking water systems, which pre-date the date of assuming responsibility and continue after the date of assuming responsibility, provided that the irrigation district has submitted and is complying with a plan and schedule of improvements approved by the department of health. This immunity shall expire on the earlier of the date the plan of improvements is completed or four years from the date of assuming responsibility. This immunity does not apply to intentional injuries, fraud, or bad faith.

Passed the Senate March 8, 1994.

Passed the House March 8, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 293

[Substitute Senate Bill 6447]

### SCHOOLS—REJECTION OF TRANSFER OF NONRESIDENT STUDENTS

AN ACT Relating to students transferring to other school districts; amending RCW 28A.225.225; and creating a new section.

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

**Sec. 1.** RCW 28A.225.225 and 1990 1st ex.s. c 9 s 203 are each amended to read as follows:

(1) All districts accepting applications from nonresident students for admission to the district's schools shall consider equally all applications received. Each school district shall adopt a policy establishing rational, fair, and equitable standards for acceptance and rejection of applications by June 30, 1990. The policy may include rejection of nonresident students if acceptance of these students would result in the district experiencing a financial hardship.

(2) The district shall provide to applicants written notification of the approval or denial of the application in a timely manner. If the application is rejected, the notification shall include the reason or reasons for denial and the right to appeal under RCW 28A.225.230(3).

**NEW SECTION. Sec. 2.** The education committees of the senate and house of representatives shall analyze issues associated with the payment of transfer fees for students who transfer to nonresident school districts under RCW 28A.225.200. The committees shall report their findings, with recommendations, to the legislature prior to December 31, 1994.

Passed the Senate March 6, 1994.  
Passed the House March 1, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 294

[Substitute Senate Bill 6556]

### NONPROFIT TELEVISION RECEPTION IMPROVEMENTS DISTRICTS— RENTAL OF PUBLIC LANDS

AN ACT Relating to the rental of public lands; adding a new section to chapter 79.12 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 79.12 RCW to read as follows:

The department of natural resources shall determine the fair market rental rate for leases to nonprofit television reception improvement districts. It is the intent of the legislature to appropriate general funds to pay a portion of the rent charged to nonprofit television reception improvement districts. It is the further intent of the legislature that such a lessee pay an annual lease rent of fifty percent of the fair market rental rate, as long as there is a general fund appropriation to compensate the trusts for the remainder of the fair market rental rate.

NEW SECTION. Sec. 2. If specific funding for the purposes of this act referencing this act by bill number is not provided by June 30, 1994, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 3. This act shall take effect July 1, 1994.

Passed the Senate March 6, 1994.  
Passed the House March 2, 1994.  
Approved by the Governor April 1, 1994.  
Filed in Office of Secretary of State April 1, 1994.

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## CHAPTER 295

[Substitute Senate Bill 6571]

### RESIDENTIAL MORTGAGE LOAN CLOSING—VALUATION DISCLOSURE

AN ACT Relating to disclosing information prior to a residential mortgage loan closing; and adding a new chapter to Title 19 RCW.

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

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

(1) "Lender" means any person doing business under the laws of this state or the United States relating to banks, savings banks, trust companies, savings

and loan associations, credit unions, consumer loan companies, insurance companies, real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof, and all other persons who make residential mortgage loans.

(2) "Residential mortgage loan" means any loan used for the purchase of a single-family dwelling or multiple-family dwelling of four or less units secured by a mortgage or deed of trust on the residential real estate.

**NEW SECTION. Sec. 2.** A lender shall provide to the borrower, prior to the closing of a residential mortgage loan, true and complete copies of all appraisals or other documents relied upon by the lender in evaluating the value of the dwelling to be financed. A borrower may waive in writing the lender's duty to provide the appraisals or other documents prior to closing. This written waiver may not be construed to in any way limit the lender's duty to provide the information to the borrower at a reasonable later date. This section shall only apply to purchase money residential mortgage loans.

**NEW SECTION. Sec. 3.** Sections 1 and 2 of this act shall constitute a new chapter in Title 19 RCW.

Passed the Senate March 6, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 296

[Senate Bill 6584]

### FAMILY EMERGENCY ASSISTANCE PROGRAM—BENEFITS LIMITATION

AN ACT Relating to the family emergency assistance program; and amending RCW 74.04.660.

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

**Sec. 1.** RCW 74.04.660 and 1993 c 63 s 1 are each amended to read as follows:

The department shall establish a consolidated emergency assistance program for families with children. Assistance may be provided in accordance with this section.

(1) Benefits provided under this program shall (~~(not be provided for more than two months of assistance in))~~ be limited to one period of time, as determined by the department, within any consecutive twelve-month period.

(2) Benefits under this program shall be provided to alleviate emergent conditions resulting from insufficient income and resources to provide for: Food, shelter, clothing, medical care, or other necessary items, as defined by the department. Benefits may also be provided for family reconciliation services, family preservation services, home-based services, short-term substitute care in a licensed agency as defined in RCW 74.15.020, crisis nurseries, therapeutic child care, or other necessary services as defined by the department. Benefits

shall be provided only in an amount sufficient to cover the cost of the specific need, subject to the limitations established in this section.

(3)(a) The department shall, by rule, establish assistance standards and eligibility criteria for this program in accordance with this section.

(b) ~~((Eligibility standards and resource levels for this program may be income up to one hundred percent of the federal poverty level, and may include consideration of resource levels.~~

(e)) Eligibility for benefits or services under this section does not automatically entitle a recipient to medical assistance.

(4) The department shall seek federal emergency assistance funds to supplement the state funds appropriated for the operation of this program as long as other departmental programs are not adversely affected by the receipt of federal funds.

(5) If state funds appropriated for the consolidated emergency assistance program are exhausted, the department may discontinue the program.

Passed the Senate March 1, 1994.

Passed the House March 8, 1994.

Approved by the Governor April 1, 1994.

Filed in Office of Secretary of State April 1, 1994.

## CHAPTER 297

[House Bill 2641]

### BAR ASSOCIATION CONSIDERED A PUBLIC EMPLOYER

AN ACT Relating to collective bargaining for employees of the Washington state bar association; amending RCW 41.56.020; and repealing 1993 c 76 s 1 (uncodified).

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

**Sec. 1.** RCW 41.56.020 and 1993 c 76 s 2 are each amended to read as follows:

This chapter shall apply to any county or municipal corporation, or any political subdivision of the state of Washington, including district courts and superior courts, except as otherwise provided by RCW 54.04.170, 54.04.180, and chapters 41.59, 47.64, and 53.18 RCW. The Washington state patrol shall be considered a public employer of state patrol officers appointed under RCW 43.43.020. The Washington state ~~((supreme court may provide by rule that the Washington state))~~ bar association shall be considered a public employer of its employees.

**NEW SECTION. Sec. 2.** 1993 c 76 s 1 (uncodified) is repealed.

Passed the House February 15, 1994.

Passed the Senate March 3, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 298

[Engrossed House Bill 2643]

## PENSION STATUTES—REFERENCES REVISED

AN ACT Relating to cross-referencing pension statutes; amending RCW 41.40.010, 41.32.010, 41.32.470, and 41.40.023; adding a new section to chapter 41.26 RCW; adding a new section to chapter 41.04 RCW; creating new sections; and recodifying RCW 41.26.180.

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

**NEW SECTION. Sec. 1.** (1) This act provides cross-references to existing statutes that affect calculation of pensions under the retirement systems authorized by chapters 41.40 and 41.32 RCW to the relevant definition sections of those chapters. Except as provided in subsection (2) of this section, this act is technical in nature and neither enhances nor diminishes existing pension rights. Except for the amendment to RCW 41.40.010(5), it is not the intent of the legislature to change the substance or effect of any statute previously enacted. Rather, this act provides cross-references to applicable statutes in order to aid with the administration of benefits authorized in chapters 41.40 and 41.32 RCW.

(2) The amendments to RCW 41.40.010 (5) and (29) contained in section 2 of this act and to RCW 41.32.010(31) contained in section 3 of this act clarify the status of certain persons as either members or retirees. Sections 6 and 7 of this act create the pension funding account in the state treasury and direct the transfer of moneys deposited in the budget stabilization account by the 1993-95 operating appropriations act, section 919, chapter 24, Laws of 1993 sp. sess., for the continuing costs of state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess. to the pension funding account.

**Sec. 2.** RCW 41.40.010 and 1993 c 95 s 8 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the public employees' retirement system provided for in this chapter.

(2) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(3) "State treasurer" means the treasurer of the state of Washington.

(4)(a) "Employer" for plan I members, means every branch, department, agency, commission, board, and office of the state, any political subdivision or association of political subdivisions of the state admitted into the retirement system, and legal entities authorized by RCW 35.63.070 and 36.70.060 or chapter 39.34 RCW (~~as now or hereafter amended~~); and the term shall also include any labor guild, association, or organization the membership of a local lodge or division of which is comprised of at least forty percent employees of an employer (other than such labor guild, association, or organization) within this



chapter. The term may also include any city of the first class that has its own retirement system.

(b) "Employer" for plan II members, means every branch, department, agency, commission, board, and office of the state, and any political subdivision and municipal corporation of the state admitted into the retirement system, including public agencies created pursuant to RCW 35.63.070, 36.70.060, and 39.34.030.

(5) "Member" means any employee included in the membership of the retirement system, as provided for in RCW 41.40.023. RCW 41.26.045 does not prohibit a person otherwise eligible for membership in the retirement system from establishing such membership effective when he or she first entered an eligible position.

(6) "Original member" of this retirement system means:

(a) Any person who became a member of the system prior to April 1, 1949;

(b) Any person who becomes a member through the admission of an employer into the retirement system on and after April 1, 1949, and prior to April 1, 1951;

(c) Any person who first becomes a member by securing employment with an employer prior to April 1, 1951, provided the member has rendered at least one or more years of service to any employer prior to October 1, 1947;

(d) Any person who first becomes a member through the admission of an employer into the retirement system on or after April 1, 1951, provided, such person has been in the regular employ of the employer for at least six months of the twelve-month period preceding the said admission date;

(e) Any member who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement becomes entitled to be credited with ten years or more of membership service except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member;

(f) Any member who has been a contributor under the system for two or more years and who has restored all contributions that may have been withdrawn as provided by RCW 41.40.150 and who on the effective date of the individual's retirement has rendered five or more years of service for the state or any political subdivision prior to the time of the admission of the employer into the system; except that the provisions relating to the minimum amount of retirement allowance for the member upon retirement at age seventy as found in RCW 41.40.190(4) shall not apply to the member.

(7) "New member" means a person who becomes a member on or after April 1, 1949, except as otherwise provided in this section.

(8)(a) "Compensation earnable" for plan I members, means salaries or wages earned during a payroll period for personal services and where the compensation is not all paid in money, maintenance compensation shall be included upon the

basis of the schedules established by the member's employer(~~(+ PROVIDED, That)~~).

(i) "Compensation earnable" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable and the individual shall receive the equivalent service credit(~~(+ PROVIDED FURTHER, That)~~);

(B) If a leave of absence is taken by an individual for the purpose of serving in the state legislature, the salary which would have been received for the position from which the leave of absence was taken, shall be considered as compensation earnable if the employee's contribution is paid by the employee and the employer's contribution is paid by the employer or employee;

(C) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(D) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038; and

(E) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670.

(ii) "Compensation earnable" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;

(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Compensation earnable" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude nonmoney maintenance compensation and lump sum or other payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay(~~(+ PROVIDED, That)~~).

"Compensation earnable" for plan II members also includes the following actual or imputed payments, which are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wage which the individual would have earned during a payroll period shall be considered compensation earnable to the extent provided above, and the individual shall receive the equivalent service credit(~~(+ PROVIDED FURTHER, That)~~);

(ii) In any year in which a member serves in the legislature, the member shall have the option of having such member's compensation earnable be the greater of:

~~((#))~~ (A) The compensation earnable the member would have received had such member not served in the legislature; or

~~((#))~~ (B) Such member's actual compensation earnable received for nonlegislative public employment and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under ~~((subparagraph (#)))~~ (b)(ii)(A) of this subsection is greater than compensation earnable under ~~((subparagraph))~~ (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions;

(iii) Assault pay only as authorized by RCW 27.04.100, 72.01.045, and 72.09.240;

(iv) Compensation that a member would have received but for a disability occurring in the line of duty only as authorized by RCW 41.40.038; and

(v) Compensation that a member receives due to participation in the leave sharing program only as authorized by RCW 41.04.650 through 41.04.670.

(9)(a) "Service" for plan I members, except as provided in RCW 41.40.088, means periods of employment in an eligible position or positions for one or more employers rendered to any employer for which compensation is paid, and includes time spent in office as an elected or appointed official of an employer. Compensation earnable earned in full time work for seventy hours or more in any given calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service except as provided in RCW 41.40.088. Only service credit months and one-quarter service credit months shall be counted in the computation of any retirement allowance or other benefit provided for in this chapter. Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service by a state employee officially assigned by the state on a temporary basis to assist another public agency, shall be considered as service as a state employee: PROVIDED, That service to any other public agency shall not be considered service as a state employee if such service has been used to establish benefits in any other public retirement system(~~:-PROVIDED FURTHER, That~~).

(ii) An individual shall receive no more than a total of twelve service credit months of service during any calendar year(~~:-PROVIDED FURTHER, That where~~). If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for seventy or more hours is rendered.

(iii) A school district employee may count up to forty-five days of sick leave as creditable service solely for the purpose of determining eligibility to retire

under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan I "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than twenty-two days equals one-quarter service credit month;

(B) Twenty-two days equals one service credit month;

(C) More than twenty-two days but less than forty-five days equals one and one-quarter service credit month.

(b) "Service" for plan II members, means periods of employment by a member in an eligible position or positions for one or more employers for which compensation earnable is paid. Compensation earnable earned for ninety or more hours in any calendar month shall constitute one service credit month except as provided in RCW 41.40.088. Compensation earnable earned for at least seventy hours but less than ninety hours in any calendar month shall constitute one-half service credit month of service. Compensation earnable earned for less than seventy hours in any calendar month shall constitute one-quarter service credit month of service.

Any fraction of a year of service shall be taken into account in the computation of such retirement allowance or benefits.

(i) Service in any state elective position shall be deemed to be full time service, except that persons serving in state elective positions who are members of the teachers' retirement system or law enforcement officers' and fire fighters' retirement system at the time of election or appointment to such position may elect to continue membership in the teachers' retirement system or law enforcement officers' and fire fighters' retirement system.

(ii) A member shall receive a total of not more than twelve service credit months of service for such calendar year(~~(+ PROVIDED, That when)~~). If an individual is employed in an eligible position by one or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service for ninety or more hours is rendered.

(iii) Up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.40.180 as authorized by RCW 28A.400.300. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(10) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(11) "Service credit month" means a month or an accumulation of months of service credit which is equal to one.

(12) "Prior service" means all service of an original member rendered to any employer prior to October 1, 1947.

(13) "Membership service" means:

(a) All service rendered, as a member, after October 1, 1947;

(b) All service after October 1, 1947, to any employer prior to the time of its admission into the retirement system: PROVIDED, That an amount equal to the employer and employee contributions which would have been paid to the retirement system on account of such service shall have been paid to the retirement system with interest (as computed by the department) on the employee's portion prior to retirement of such person, by the employee or his or her employer, except as qualified by RCW 41.40.023: PROVIDED FURTHER, That employer contributions plus employee contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employees' savings fund and be treated as any other contribution made by the employee, with the exception that the contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall be excluded from the calculation of the member's annuity in the event the member selects a benefit with an annuity option;

(c) Service not to exceed six consecutive months of probationary service rendered after April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of the total amount of the employer's contribution to the retirement fund which would have been required under the law in effect when such probationary service was rendered if the member had been a member during such period, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member;

(d) Service not to exceed six consecutive months of probationary service, rendered after October 1, 1947, and before April 1, 1949, and prior to becoming a member, in the case of any member, upon payment in full by such member of five percent of such member's salary during said period of probationary service, except that the amount of the employer's contribution shall be calculated by the director based on the first month's compensation earnable as a member.

(14)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance, pension or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(15) "Regular interest" means such rate as the director may determine.

(16) "Accumulated contributions" means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(17)(a) "Average final compensation" for plan I members, means the annual average of the greatest compensation earnable by a member during any consecutive two year period of service credit months for which service credit is allowed; or if the member has less than two years of service credit months then the annual average compensation earnable during the total years of service for which service credit is allowed.

(b) "Average final compensation" for plan II members, means the member's average compensation earnable of the highest consecutive sixty months of service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.40.710(2).

(18) "Final compensation" means the annual rate of compensation earnable by a member at the time of termination of employment.

(19) "Annuity" means payments for life derived from accumulated contributions of a member. All annuities shall be paid in monthly installments.

(20) "Pension" means payments for life derived from contributions made by the employer. All pensions shall be paid in monthly installments.

(21) "Retirement allowance" means the sum of the annuity and the pension.

(22) "Employee" means any person who may become eligible for membership under this chapter, as set forth in RCW 41.40.023.

(23) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality and other tables as may be adopted by the director.

(24) "Retirement" means withdrawal from active service with a retirement allowance as provided by this chapter.

(25) "Eligible position" means:

(a) Any position that, as defined by the employer, normally requires five or more months of service a year for which regular compensation for at least seventy hours is earned by the occupant thereof. For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position;

(b) Any position occupied by an elected official or person appointed directly by the governor for which compensation is paid.

(26) "Ineligible position" means any position which does not conform with the requirements set forth in subsection (25) of this section.

(27) "Leave of absence" means the period of time a member is authorized by the employer to be absent from service without being separated from membership.

(28) "Totally incapacitated for duty" means total inability to perform the duties of a member's employment or office or any other work for which the member is qualified by training or experience.

(29) "Retiree" means any (~~(member)~~) person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer (~~(by such)~~) while a member. A person is in receipt of a retirement allowance as defined in subsection (21) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(30) "Director" means the director of the department.

(31) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(32) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(33) "Plan I" means the public employees' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(34) "Plan II" means the public employees' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

**Sec. 3.** RCW 41.32.010 and 1993 c 95 s 7 are each amended to read as follows:

As used in this chapter, unless a different meaning is plainly required by the context:

(1)(a) "Accumulated contributions" for plan I members, means the sum of all regular annuity contributions with regular interest thereon.

(b) "Accumulated contributions" for plan II members, means the sum of all contributions standing to the credit of a member in the member's individual account together with the regular interest thereon.

(2) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such mortality tables and regulations as shall be adopted by the director and regular interest.

(3) "Annuity" means the moneys payable per year during life by reason of accumulated contributions of a member.

(4) "Member reserve" means the fund in which all of the accumulated contributions of members are held.

(5)(a) "Beneficiary" for plan I members, means any person in receipt of a retirement allowance or other benefit provided by this chapter.

(b) "Beneficiary" for plan II members, means any person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer by another person.

(6) "Contract" means any agreement for service and compensation between a member and an employer.

(7) "Creditable service" means membership service plus prior service for which credit is allowable. This subsection shall apply only to plan I members.

(8) "Dependent" means receiving one-half or more of support from a member.

(9) "Disability allowance" means monthly payments during disability. This subsection shall apply only to plan I members.

(10)(a) "Earnable compensation" for plan I members, means:

(i) All salaries and wages paid by an employer to an employee member of the retirement system for personal services rendered during a fiscal year. In all cases where compensation includes maintenance the employer shall fix the value of that part of the compensation not paid in money.

(ii) "Earnable compensation" for plan I members also includes the following actual or imputed payments, which are not paid for personal services:

(A) Retroactive payments to an individual by an employer on reinstatement of the employee in a position, or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation and the individual shall receive the equivalent service credit.

(B) If a leave of absence, without pay, is taken by a member for the purpose of serving as a member of the state legislature, and such member has served in the legislature five or more years, the salary which would have been received for the position from which the leave of absence was taken shall be considered as compensation earnable if the employee's contribution thereon is paid by the employee. In addition, where a member has been a member of the state legislature for five or more years, earnable compensation for the member's two highest compensated consecutive years of service shall include a sum not to exceed thirty-six hundred dollars for each of such two consecutive years, regardless of whether or not legislative service was rendered during those two years.

~~((+))~~ (iii) For members employed less than full time under written contract with a school district, or community college district, in an instructional position, for which the member receives service credit of less than one year in all of the years used to determine the earnable compensation used for computing benefits due under RCW 41.32.497, 41.32.498, and 41.32.520, the member may elect to have earnable compensation defined as provided in RCW 41.32.345. For the purposes of this subsection, the term "instructional position" means a position in which more than seventy-five percent of the member's time is spent as a classroom instructor (including office hours), a librarian, or a counselor. Earnable compensation shall be so defined only for the purpose of the calculation of retirement benefits and only as necessary to insure that members who receive fractional service credit under RCW 41.32.270 receive benefits proportional to those received by members who have received full-time service credit.

(iv) "Earnable compensation" does not include:

(A) Remuneration for unused sick leave authorized under RCW 41.04.340, 28A.400.210, or 28A.310.490;



(B) Remuneration for unused annual leave in excess of thirty days as authorized by RCW 43.01.044 and 43.01.041.

(b) "Earnable compensation" for plan II members, means salaries or wages earned by a member during a payroll period for personal services, including overtime payments, and shall include wages and salaries deferred under provisions established pursuant to sections 403(b), 414(h), and 457 of the United States Internal Revenue Code, but shall exclude lump sum payments for deferred annual sick leave, unused accumulated vacation, unused accumulated annual leave, or any form of severance pay.

"Earnable compensation" for plan II members also includes the following actual or imputed payments which, except in the case of (b)(ii)(B) of this subsection, are not paid for personal services:

(i) Retroactive payments to an individual by an employer on reinstatement of the employee in a position or payments by an employer to an individual in lieu of reinstatement in a position which are awarded or granted as the equivalent of the salary or wages which the individual would have earned during a payroll period shall be considered earnable compensation, to the extent provided above, and the individual shall receive the equivalent service credit.

(ii) In any year in which a member serves in the legislature the member shall have the option of having such member's earnable compensation be the greater of:

(A) The earnable compensation the member would have received had such member not served in the legislature; or

(B) Such member's actual earnable compensation received for teaching and legislative service combined. Any additional contributions to the retirement system required because compensation earnable under (b)(ii)(A) of this subsection is greater than compensation earnable under (b)(ii)(B) of this subsection shall be paid by the member for both member and employer contributions.

(11) "Employer" means the state of Washington, the school district, or any agency of the state of Washington by which the member is paid.

(12) "Fiscal year" means a year which begins July 1st and ends June 30th of the following year.

(13) "Former state fund" means the state retirement fund in operation for teachers under chapter 187, Laws of 1923, as amended.

(14) "Local fund" means any of the local retirement funds for teachers operated in any school district in accordance with the provisions of chapter 163, Laws of 1917 as amended.

(15) "Member" means any teacher included in the membership of the retirement system. Also, any other employee of the public schools who, on July 1, 1947, had not elected to be exempt from membership and who, prior to that date, had by an authorized payroll deduction, contributed to the member reserve.

(16) "Membership service" means service rendered subsequent to the first day of eligibility of a person to membership in the retirement system:

PROVIDED, That where a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered. The provisions of this subsection shall apply only to plan I members.

(17) "Pension" means the moneys payable per year during life from the pension reserve.

(18) "Pension reserve" is a fund in which shall be accumulated an actuarial reserve adequate to meet present and future pension liabilities of the system and from which all pension obligations are to be paid.

(19) "Prior service" means service rendered prior to the first date of eligibility to membership in the retirement system for which credit is allowable. The provisions of this subsection shall apply only to plan I members.

(20) "Prior service contributions" means contributions made by a member to secure credit for prior service. The provisions of this subsection shall apply only to plan I members.

(21) "Public school" means any institution or activity operated by the state of Washington or any instrumentality or political subdivision thereof employing teachers, except the University of Washington and Washington State University.

(22) "Regular contributions" means the amounts required to be deducted from the compensation of a member and credited to the member's individual account in the member reserve. This subsection shall apply only to plan I members.

(23) "Regular interest" means such rate as the director may determine.

(24)(a) "Retirement allowance" for plan I members, means monthly payments based on the sum of annuity and pension, or any optional benefits payable in lieu thereof.

(b) "Retirement allowance" for plan II members, means monthly payments to a retiree or beneficiary as provided in this chapter.

(25) "Retirement system" means the Washington state teachers' retirement system.

(26)(a) "Service" for plan I members means the time during which a member has been employed by an employer for compensation(~~(- PROVIDED, That where)~~).

(i) If a member is employed by two or more employers the individual shall receive no more than one service credit month during any calendar month in which multiple service is rendered.

(ii) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(iii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(b) "Service" for plan II members, means periods of employment by a member for one or more employers for which earnable compensation is earned subject to the following conditions:

(i) A member employed in an eligible position or as a substitute shall receive one service credit month for each month of September through August of the following year if he or she earns earnable compensation for eight hundred ten or more hours during that period and is employed during nine of those months, except that a member may not receive credit for any period prior to the member's employment in an eligible position except as provided in RCW 41.32.812 and 41.50.132;

(ii) If a member is employed either in an eligible position or as a substitute teacher for nine months of the twelve month period between September through August of the following year but earns earnable compensation for less than eight hundred ten hours but for at least six hundred thirty hours, he or she will receive one-half of a service credit month for each month of the twelve month period;

(iii) All other members in an eligible position or as a substitute teacher shall receive service credit as follows:

(A) A service credit month is earned in those calendar months where earnable compensation is earned for ninety or more hours;

(B) A half-service credit month is earned in those calendar months where earnable compensation is earned for at least seventy hours but less than ninety hours; and

(C) A quarter-service credit month is earned in those calendar months where earnable compensation is earned for less than seventy hours.

(iv) Any person who is a member of the teachers' retirement system and who is elected or appointed to a state elective position may continue to be a member of the retirement system and continue to receive a service credit month for each of the months in a state elective position by making the required member contributions.

(v) When an individual is employed by two or more employers the individual shall only receive one month's service credit during any calendar month in which multiple service for ninety or more hours is rendered.

(vi) As authorized by RCW 28A.400.300, up to forty-five days of sick leave may be creditable as service solely for the purpose of determining eligibility to retire under RCW 41.32.470. For purposes of plan II "forty-five days" as used in RCW 28A.400.300 is equal to two service credit months. Use of less than forty-five days of sick leave is creditable as allowed under this subsection as follows:

(A) Less than eleven days equals one-quarter service credit month;

(B) Eleven or more days but less than twenty-two days equals one-half service credit month;

(C) Twenty-two days equals one service credit month;

(D) More than twenty-two days but less than thirty-three days equals one and one-quarter service credit month;

(E) Thirty-three or more days but less than forty-five days equals one and one-half service credit month.

(vii) As authorized in RCW 41.32.065, service earned in an out-of-state retirement system that covers teachers in public schools may be applied solely for the purpose of determining eligibility to retire under RCW 41.32.470.

(viii) The department shall adopt rules implementing this subsection.

(27) "Service credit year" means an accumulation of months of service credit which is equal to one when divided by twelve.

(28) "Service credit month" means a full service credit month or an accumulation of partial service credit months that are equal to one.

(29) "Teacher" means any person qualified to teach who is engaged by a public school in an instructional, administrative, or supervisory capacity. The term includes state, educational service district, and school district superintendents and their assistants and all employees certificated by the superintendent of public instruction; and in addition thereto any full time school doctor who is employed by a public school and renders service of an instructional or educational nature.

(30) "Average final compensation" for plan II members, means the member's average earnable compensation of the highest consecutive sixty service credit months prior to such member's retirement, termination, or death. Periods constituting authorized leaves of absence may not be used in the calculation of average final compensation except under RCW 41.32.810(2).

(31) "Retiree" means any ~~((member))~~ person in receipt of a retirement allowance or other benefit provided by this chapter resulting from service rendered to an employer ~~((by such))~~ while a member. A person is in receipt of a retirement allowance as defined in subsection (24) of this section or other benefit as provided by this chapter when the department mails, causes to be mailed, or otherwise transmits the retirement allowance warrant.

(32) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(33) "Director" means the director of the department.

(34) "State elective position" means any position held by any person elected or appointed to state-wide office or elected or appointed as a member of the legislature.

(35) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(36) "Substitute teacher" means:

(a) A teacher who is hired by an employer to work as a temporary teacher, except for teachers who are annual contract employees of an employer and are guaranteed a minimum number of hours; or

(b) Teachers who either (i) work in ineligible positions for more than one employer or (ii) work in an ineligible position or positions together with an eligible position.

(37)(a) "Eligible position" for plan II members from June 7, 1990, through September 1, 1991, means a position which normally requires two or more uninterrupted months of creditable service during September through August of the following year.

(b) "Eligible position" for plan II on and after September 1, 1991, means a position that, as defined by the employer, normally requires five or more months of at least seventy hours of earnable compensation during September through August of the following year.

(c) For purposes of this chapter an employer shall not define "position" in such a manner that an employee's monthly work for that employer is divided into more than one position.

(d) The elected position of the superintendent of public instruction is an eligible position.

(38) "Plan I" means the teachers' retirement system, plan I providing the benefits and funding provisions covering persons who first became members of the system prior to October 1, 1977.

(39) "Plan II" means the teachers' retirement system, plan II providing the benefits and funding provisions covering persons who first became members of the system on and after October 1, 1977.

**Sec. 4.** RCW 41.32.470 and 1965 ex.s. c 81 s 4 are each amended to read as follows:

A member who is not a dual member under RCW 41.54.010 must have established or reestablished with the retirement system at least five years of credit for public school service in this state to be entitled to a retirement allowance.

**NEW SECTION.** **Sec. 5.** The code reviser shall recodify RCW 41.26.180 within chapter 41.26 RCW under the subchapter heading "Provisions applicable to plan I and plan II."

**NEW SECTION.** **Sec. 6.** A new section is added to chapter 41.04 RCW to read as follows:

The pension funding account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the continuing costs of any state retirement system benefits in effect on July 1, 1993, consistent with section 919, chapter 24, Laws of 1993 sp. sess.

**NEW SECTION.** **Sec. 7.** On July 1, 1995, the state treasurer shall transfer twenty-five million dollars from the budget stabilization account to the pension funding account created under section 6 of this act.

**Sec. 8.** RCW 41.40.023 and 1993 c 319 s 1 are each amended to read as follows:

Membership in the retirement system shall consist of all regularly compensated employees and appointive and elective officials of employers, as defined in this chapter, with the following exceptions:

(1) Persons in ineligible positions;

(2) Employees of the legislature except the officers thereof elected by the members of the senate and the house and legislative committees, unless membership of such employees be authorized by the said committee;

(3)(a) Persons holding elective offices or persons appointed directly by the governor: PROVIDED, That such persons shall have the option of applying for membership during such periods of employment: AND PROVIDED FURTHER, That any persons holding or who have held elective offices or persons appointed by the governor who are members in the retirement system and who have, prior to becoming such members, previously held an elective office, and did not at the start of such initial or successive terms of office exercise their option to become members, may apply for membership to be effective during such term or terms of office, and shall be allowed to establish the service credit applicable to such term or terms of office upon payment of the employee contributions therefor by the employee with interest as determined by the director and employer contributions therefor by the employer or employee with interest as determined by the director: AND PROVIDED FURTHER, That all contributions with interest submitted by the employee under this subsection shall be placed in the employee's individual account in the employee's savings fund and be treated as any other contribution made by the employee, with the exception that any contributions submitted by the employee in payment of the employer's obligation, together with the interest the director may apply to the employer's contribution, shall not be considered part of the member's annuity for any purpose except withdrawal of contributions;

(b) A member holding elective office who has elected to apply for membership pursuant to (a) of this subsection and who later wishes to be eligible for a retirement allowance shall have the option of ending his or her membership in the retirement system. A member wishing to end his or her membership under this subsection must file, on a form supplied by the department, a statement indicating that the member agrees to irrevocably abandon any claim for service for future periods served as an elected official. A member who receives more than fifteen thousand dollars per year in compensation for his or her elective service, adjusted annually for inflation by the director, is not eligible for the option provided by this subsection (3)(b);

(4) Employees holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who are by reason of their current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan: PROVIDED, HOWEVER, In any case where the retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members

can retain service credit in more than one system, such an employee shall be allowed membership rights should the agreement so provide: AND PROVIDED FURTHER, That an employee shall be allowed membership if otherwise eligible while receiving survivor's benefits: AND PROVIDED FURTHER, That an employee shall not either before or after June 7, 1984, be excluded from membership or denied service credit pursuant to this subsection solely on account of: (a) Membership in the plan created under chapter 2.14 RCW; or (b) enrollment under the relief and compensation provisions or the pension provisions of the volunteer fire fighters' relief and pension fund under chapter 41.24 RCW;

(5) Patient and inmate help in state charitable, penal, and correctional institutions;

(6) "Members" of a state veterans' home or state soldiers' home;

(7) Persons employed by an institution of higher learning or community college, primarily as an incident to and in furtherance of their education or training, or the education or training of a spouse;

(8) Employees of an institution of higher learning or community college during the period of service necessary to establish eligibility for membership in the retirement plans operated by such institutions;

(9) Persons rendering professional services to an employer on a fee, retainer, or contract basis or when the income from these services is less than fifty percent of the gross income received from the person's practice of a profession;

(10) Persons appointed after April 1, 1963, by the liquor control board as agency vendors;

(11) Employees of a labor guild, association, or organization: PROVIDED, That elective officials and employees of a labor guild, association, or organization which qualifies as an employer within this chapter shall have the option of applying for membership;

(12) Plan I retirees employed in eligible positions on a temporary basis for a period not to exceed five months in a calendar year: PROVIDED, That if such employees are employed for more than five months in a calendar year in an eligible position they shall become members of the system prospectively;

(13) Persons employed by or appointed or elected as an official of a first class city that has its own retirement system: PROVIDED, That any member elected or appointed to an elective office on or after April 1, 1971, shall have the option of continuing as a member of this system in lieu of becoming a member of the city system. A member who elects to continue as a member of this system shall pay the appropriate member contributions and the city shall pay the employer contributions at the rates prescribed by this chapter. The city shall also transfer to this system all of such member's accumulated contributions together with such further amounts as necessary to equal all employee and employer contributions which would have been paid into this system on account of such service with the city and thereupon the member shall be granted credit for all such service. Any city that becomes an employer as defined in RCW

41.40.010(4) as the result of an individual's election under this subsection shall not be required to have all employees covered for retirement under the provisions of this chapter. Nothing in this subsection shall prohibit a city of the first class with its own retirement system from: (a) Transferring all of its current employees to the retirement system established under this chapter, or (b) allowing newly hired employees the option of continuing coverage under the retirement system established by this chapter.

Notwithstanding any other provision of this chapter, persons transferring from employment with a first class city of over four hundred thousand population that has its own retirement system to employment with the state department of agriculture may elect to remain within the retirement system of such city and the state shall pay the employer contributions for such persons at like rates as prescribed for employers of other members of such system;

(14) Employees who (a) are not citizens of the United States, (b) do not reside in the United States, and (c) perform duties outside of the United States;

(15) Employees who (a) are not citizens of the United States, (b) are not covered by chapter 41.48 RCW, (c) are not excluded from membership under this chapter or chapter 41.04 RCW, (d) are residents of this state, and (e) make an irrevocable election to be excluded from membership, in writing, which is submitted to the director within thirty days after employment in an eligible position;

(16) Employees who are citizens of the United States and who reside and perform duties for an employer outside of the United States: PROVIDED, That unless otherwise excluded under this chapter or chapter 41.04 RCW, the employee may apply for membership (a) within thirty days after employment in an eligible position and membership service credit shall be granted from the first day of membership service, and (b) after this thirty-day period, but membership service credit shall be granted only from the date of application;

(17) The city manager or chief administrative officer of a city or town who serves at the pleasure of an appointing authority: PROVIDED, That such persons shall have the option of applying for membership within thirty days from date of their appointment to such positions. Persons serving in such positions as of April 4, 1986, shall continue to be members in the retirement system unless they notify the director in writing prior to December 31, 1986, of their desire to withdraw from membership in the retirement system. A member who withdraws from membership in the system under this section shall receive a refund of the member's accumulated contributions;

(18) Persons enrolled in state-approved apprenticeship programs, authorized under chapter 49.04 RCW, and who are employed by local governments to earn hours to complete such apprenticeship programs, if the employee is a member of a union-sponsored retirement plan and is making contributions to such a retirement plan or if the employee is a member of a Taft-Hartley retirement plan.



Passed the House March 10, 1994.  
 Passed the Senate March 10, 1994.  
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 Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 299

[Engrossed Second Substitute House Bill 2798]

### WELFARE SYSTEM REFORM

AN ACT Relating to public assistance reform; amending RCW 74.25.010, 74.25.020, 26.23.035, 50.63.010, 50.63.020, 50.63.030, 50.63.040, 50.63.060, 50.63.090, 74.12.350, and 69.80.900; adding new sections to chapter 74.12 RCW; adding a new section to chapter 70.190 RCW; adding a new section to chapter 74.25 RCW; adding a new section to chapter 74.20A RCW; adding new sections to chapter 74.20 RCW; adding a new section to chapter 43.70 RCW; adding a new section to chapter 74.04 RCW; adding a new section to chapter 69.80 RCW; adding a new chapter to Title 74 RCW; creating new sections; recodifying RCW 50.63.010, 50.63.020, 50.63.030, 50.63.040, 50.63.050, 50.63.060, 50.63.070, 50.63.080, and 50.63.090; repealing RCW 74.12.360 and 69.80.030; and providing an effective date.

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

**NEW SECTION.** Sec. 1. The legislature finds that lengthy stays on welfare, lack of access to vocational education and training, the inadequate emphasis on employment by the social welfare system, and teen pregnancy are obstacles to achieving economic independence. Therefore, the legislature intends that:

- (1) Income and employment assistance programs emphasize the temporary nature of welfare and set goals of responsibility, work, and independence;
- (2) State institutions take an active role in preventing pregnancy in young teens;
- (3) Family planning assistance be readily available to welfare recipients;
- (4) Support enforcement be more effective and the level of responsibility of noncustodial parents be significantly increased; and
- (5) Job search, job skills training, and vocational education resources are to be used in the most cost-effective manner possible.

### PART I. EMPHASIZING WORK AND FAMILY PLANNING IN PUBLIC ASSISTANCE

**NEW SECTION.** Sec. 2. A new section is added to chapter 74.12 RCW to read as follows:

The department shall train financial services and social work staff who provide direct service to recipients of aid to families with dependent children to:

- (1) Effectively communicate the transitional nature of aid to families with dependent children and the expectation that recipients will enter employment;
  - (2) Actively refer clients to the job opportunities and basic skills program;
  - (3) Provide social services needed to overcome obstacles to employability;
- and

(4) Provide family planning information and assistance, including alternatives to abortion, which shall be conducted in consultation with the department of health.

**NEW SECTION.** Sec. 3. A new section is added to chapter 74.12 RCW to read as follows:

At time of application or reassessment under this chapter the department shall offer or contract for family planning information and assistance, including alternatives to abortion, and any other available locally based teen pregnancy prevention programs, to prospective and current recipients of aid to families with dependent children.

## **PART II. TEEN PREGNANCY PREVENTION**

**NEW SECTION.** Sec. 4. For the 1994-95 school year, the office of the superintendent of public instruction shall administer 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. The messages shall be distributed in the school and community where produced. 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 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. For purposes of evaluating the impact of the campaigns, applicants shall estimate student pregnancy and birth rates over the prior three to five years.

**NEW SECTION.** Sec. 5. A new section is added to chapter 70.190 RCW to read as follows:

The community network's plan may include funding for a student designed media and community campaign promoting sexual abstinence and addressing the importance of delaying sexual activity and pregnancy or male parenting until individuals are ready to nurture and support their children. Under the campaign, which shall be substantially designed and produced by students, the same messages shall be distributed in schools, through the media, and in the community where the campaign is targeted. The campaign shall require local private sector matching funds equal to state funds. Local private sector funds may include in-kind contributions of technical or other assistance from consultants or firms involved in public relations, advertising, broadcasting, and graphics or video production or other related fields. The campaign shall be evaluated using the outcomes required of community networks under this chapter, in particular reductions in the number or rate of teen pregnancies and teen male parentage over a three to five year period.

## PART III. REFOCUSING JOBS

Sec. 6. RCW 74.25.010 and 1991 c 126 s 5 are each amended to read as follows:

The legislature establishes as state policy the goal of economic self-sufficiency for employable recipients of public assistance, through employment, training, and education. In furtherance of this policy, the legislature intends to comply with the requirements of the federal social security act, as amended, by creating a job opportunities and basic skills training program for applicants and recipients of aid to families with dependent children. The purpose of this program is to provide recipients of aid to families with dependent children the opportunity to obtain ~~((a full range of necessary))~~ appropriate education, training, skills, and supportive services, including child care, consistent with their needs, that will help them enter or reenter gainful employment, thereby avoiding long-term welfare dependence and achieving economic self-sufficiency. The program shall be operated by the department of social and health services in conformance with federal law and consistent with the following legislative findings:

(1) The legislature finds that the well-being of children depends not only on meeting their material needs, but also on the ability of parents to become economically self-sufficient. The job opportunities and basic skills training program is specifically directed at increasing the labor force participation and household earnings of aid to families with dependent children recipients, through the removal of barriers preventing them from achieving self-sufficiency. These barriers include, but are not limited to, the lack of recent work experience, supportive services such as affordable and reliable child care, adequate transportation, appropriate counseling, and necessary job-related tools, equipment, books, clothing, and supplies, the absence of basic literacy skills, the lack of educational attainment sufficient to meet labor market demands for career employees, and the nonavailability of useful labor market assessments.

(2) The legislature also recognizes that aid to families with dependent children recipients must be acknowledged as active participants in self-sufficiency planning under the program. The legislature finds that the department of social and health services should communicate concepts of the importance of work and how performance and effort directly affect future career and educational opportunities and economic well-being, as well as personal empowerment, self-motivation, and self-esteem to program participants. The legislature further recognizes that informed choice is consistent with individual responsibility, and that parents should be given a range of options for available child care while participating in the program.

(3) The legislature finds that current work experience is one of the most important factors influencing an individual's ability to work toward financial stability and an adequate standard of living in the long term, and that work experience should be the most important component of the program.

(4) The legislature finds that education, including, but not limited to, literacy, high school equivalency, vocational, secondary, and postsecondary, is

one of the most important tools an individual needs to achieve full independence, and that this should be an important component of the program.

~~((4))~~ (5) The legislature further finds that the objectives of this program are to assure that aid to families with dependent children recipients gain experience in the labor force and thereby enhance their long-term ability to achieve financial stability and an adequate standard of living at wages that will meet family needs.

*\*Sec. 7. RCW 74.25.020 and 1993 c 312 s 7 are each amended to read as follows:*

*(1) The department of social and health services is authorized to contract with public and private employment and training agencies and other public service entities to provide services prescribed or allowed under the federal social security act, as amended, to carry out the purposes of the jobs training program. In contracting for job placement, job search, and other job opportunities and basic skills services, the department is encouraged to structure payments to the contractor on a performance basis. The department of social and health services has sole authority and responsibility to carry out the job opportunities and basic skills training program. No contracting entity shall have the authority to review, change, or disapprove any administrative decision, or otherwise substitute its judgment for that of the department of social and health services as to the application of policies and rules adopted by the department of social and health services. The department shall maximize the federal matching funds available for the job opportunities and basic skills program by aggressively seeking private and public funds as match for federal funds.*

*(2) To the extent feasible under federal law, the department of social and health services and all entities contracting with it shall ~~((give first priority of service to individuals volunteering for program participation))~~ require nonexempt parents to actively participate in the JOBS program, with an emphasis on job readiness activities and vocational education. Social services shall be offered to participants in accordance with federal law. The department shall adopt appropriate sanctions to ensure compliance with the requirement and policies of this chapter.*

*(3) To the extent feasible under federal law, the department of social and health services and all entities contracting with it shall ensure that long-term recipients of aid to families with dependent children or those who are potentially long-term recipients as identified in federal job opportunities and basic skills (JOBS) target populations shall receive first priority for JOBS services. Federal JOBS targets are: (a) Applicants for assistance who have received such aid for thirty-six of the preceding sixty months; (b) recipients who have received assistance for thirty-six of the preceding sixty months; (c) custodial parents under the age of twenty-four who have not completed high school or its equivalent; (d) custodial parents under the age of twenty-four with little or no recent work experience; and (e) members of families in which the*

youngest child is within two years of being ineligible for assistance because of age.

(4) The department shall prioritize JOBS service delivery according to the categories within the existing federal target groups as follows: (a) Custodial parents under the age of twenty-four with little or no recent work experience; (b) custodial parents under the age of twenty-four who have not completed high school or its equivalent may be required to do so; (c) recipients who have received assistance for thirty-six of the preceding sixty months; and (d) at least one parent in an aid to families with dependent children-employable household shall be required to participate in one of the following JOBS components for a minimum of sixteen hours per week: (i) Community work experience; (ii) work experience; (iii) on-the-job training; (iv) work supplementation; (v) those under the age of twenty-four who have not completed high school or its equivalent may be required to do so.

(5) The department shall develop a realistic schedule for the phase-in of recipient participation in the JOBS program based on the availability of state, federal, and other relevant funding.

(6) All job search, skills training, and postsecondary education shall be oriented towards local labor force needs as determined by the department in consultation with the local private industry council and the employment security department. Education and skills training shall emphasize basic, secondary, and vocational education. Aid to families with dependent children grants shall be provided to individuals attending a four-year college or university only if it can be demonstrated that it provides the fastest and most efficient path to employment for a particular recipient. Aid to families with dependent children recipients are prohibited from undertaking a postsecondary course of study oriented primarily towards liberal arts.

(7) Job search assistance, whether provided by the department or an entity contracting with the department, shall include job development services. The services shall be provided by persons responsible for identifying existing and potential job openings and for developing relationships with existing and potential area employers.

((3)) (8) The department of social and health services shall adopt rules under chapter 34.05 RCW establishing criteria constituting circumstances of good cause for an individual failing or refusing to participate in an assigned program component, or failing or refusing to accept or retain employment. These criteria shall include, but not be limited to, the following circumstances: (a) If the individual is a parent or other relative personally providing care for a child under age ~~((six years, and the employment would require the individual to work more than twenty hours per week))~~ three; (b) if child care, or day care for an incapacitated individual living in the same home as a dependent child, is necessary for an individual to participate or continue participation in the program or accept employment, and such care is not available, and the department of social and health services fails to provide such care; (c) the

*employment would result in the family of the participant experiencing a net loss of cash income; (d) if the individual is engaged in at least fifteen hours per week of unsubsidized employment; or ~~((4))~~ (e) circumstances that are beyond the control of the individual's household, either on a short-term or on an ongoing basis.*

~~((4))~~ (9) *The department of social and health services shall adopt rules under chapter 34.05 RCW as necessary to effectuate the intent and purpose of this chapter.*

\*Sec. 7 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 74.25 RCW to read as follows:

Recipients of aid to families with dependent children who are not participating in an education or work training program may volunteer to work in a licensed child care facility, or other willing volunteer work site. Licensed child care facilities participating in this effort shall provide care for the recipient's children and provide for the development of positive child care skills.

#### **PART IV. ELIGIBILITY AND BENEFIT PAYMENT REVISIONS**

NEW SECTION. Sec. 9. A new section is added to chapter 74.12 RCW to read as follows:

The legislature recognizes that long-term recipients of aid to families with dependent children may require a period of several years to attain economic self-sufficiency. To provide incentives for long-term recipients to leave public assistance and accept paid employment, the legislature finds that less punitive and onerous sanctions than those required by the federal government are appropriate. The legislature finds that a ten percent reduction in grants for long-term recipients that may be replaced through earned income is a more positive approach than sanctions required by the federal government for long-term recipients who fail to comply with requirements of the job opportunities and basic skills program. A long-term recipient shall not be subject to two simultaneous sanctions for failure to comply with the participation requirements of the job opportunities and basic skills program and for exceeding the length of stay provisions of this section.

(1) After forty-eight monthly benefit payments in a sixty-month period, and after each additional twelve monthly benefit payments, the aid to families with dependent children monthly benefit payment shall be reduced by ten percent of the payment standard, except that after forty-eight monthly payments in a sixty-month period, full monthly benefit payments may be made if:

(a) The person is incapacitated or is needed in the home to care for a member of the household who is incapacitated;

(b) The person is needed in the home to care for a child who is under three years of age;

(c) There are no adults in the assistance unit;

(d) The person is cooperating in the development and implementation of an employability plan while receiving aid to families with dependent children and no present full-time, part-time, or unpaid work experience job is offered; or

(e) During a month in which a grant reduction would be imposed under this section, the person is participating in an unpaid work experience program.

(2) For purposes of determining the amount of the food stamp benefit for recipients subject to benefit reductions provided for in subsection (1) of this section, countable income from the aid to families with dependent children program shall be set at the payment standard.

(3) For purposes of determining monthly benefit payments for two-parent aid to families with dependent children households, the length of stay criterion will be applied to the parent with the longer history of public assistance receipt.

**NEW SECTION.** **Sec. 10.** A new section is added to chapter 74.12 RCW to read as follows:

For purposes of determining the amount of monthly benefit payment to recipients of aid to families with dependent children who are subject to benefit reductions due to length of stay, all countable nonexempt earned income shall be subtracted from an amount equal to the payment standard.

**NEW SECTION.** **Sec. 11.** A new section is added to chapter 74.12 RCW to read as follows:

The department shall amend the state plan to eliminate the one hundred hour work rule for recipients of aid to families with dependent children-employable.

**NEW SECTION.** **Sec. 12.** A new section is added to chapter 74.12 RCW to read as follows:

The revisions to the aid to families with dependent children program and job opportunities and basic skills training program shall be implemented by the department of social and health services on a state-wide basis.

## **PART V. CHILD SUPPORT**

**NEW SECTION.** **Sec. 13.** The department of social and health services shall make a substantial effort to determine the identity of the noncustodial parent through consistent implementation of RCW 70.58.080. By December 1, 1994, the department of social and health services shall report to the fiscal committees of the legislature on the method for validating claims of good cause for refusing to establish paternity, the methods used in other states, and the national average rate of claims of good cause for refusing to establish paternity compared to the Washington state rate of claims of good cause for refusing to establish paternity, the reasons for differences in the rates, and steps that may be taken to reduce these differences.

***\*NEW SECTION.*** **Sec. 14.** *A new section is added to chapter 74.20A RCW to read as follows:*

*(1) In each case within the jurisdiction of the office of support enforcement in which a child support obligation has been established, the secretary*

*shall issue a letter, by mail, to the parent responsible for payment of the support obligation. The letter shall notify the parent that the fact and amount of the child support obligation will be reported to consumer reporting agencies, as defined in RCW 19.182.010, operating in the state of Washington.*

*(2) Within thirty days following the date that a notice described in subsection (1) of this section is mailed, the secretary shall report the fact and amount of the child support obligation to consumer reporting agencies, as defined in RCW 19.182.010, operating in the state of Washington. Any modification in the amount of a child support obligation for which a report has been made under this section, shall be reported to consumer reporting agencies, as defined in RCW 19.182.010, operating in the state of Washington.*

*\*Sec. 14 was vetoed, see message at end of chapter.*

***\*NEW SECTION.*** *Sec. 15. A new section is added to chapter 74.20 RCW to read as follows:*

*(1) The office of support enforcement shall contract with private collection agencies to pursue collection of arrearages that might otherwise consume a disproportionate share of the office's collection efforts. Those cases considered to consume a disproportionate share of the offices collection efforts shall include those cases owing more than fifteen hundred dollars, cases where no payment has been received in the last six months towards any debt owed to the department, or cases where the last known address was outside of the state of Washington. In determining appropriate contract provisions, the department shall consult with other state support enforcement agencies which have successfully contracted with private collection agencies to the extent allowed by federal regulations.*

*(2) The department shall solicit proposals and shall select collection agencies that have computerized location and asset information service capabilities.*

*(3) The department shall monitor each case that it refers to a collection agency.*

*(4) The department shall evaluate the effectiveness of entering into contracts for services under this section.*

*(5) The department shall report to the fiscal committees of the legislature on the results of its analysis under subsections (3) and (4) of this section.*

*\*Sec. 15 was vetoed, see message at end of chapter.*

***NEW SECTION.*** *Sec. 16. A new section is added to chapter 74.20 RCW to read as follows:*

*The office of support enforcement shall, as a matter of policy, use all available remedies for the enforcement of support obligations where the obligor is a self-employed individual. The office of support enforcement shall not discriminate in favor of certain obligors based upon employment status.*

***NEW SECTION.*** *Sec. 17. The legislature finds that the reliable receipt of child support payments by custodial parents is essential to maintaining economic*



self-sufficiency. It is the intent of the legislature to ensure that child support payments received by custodial parents when such support is owed are retained by those parents regardless of future claims made against such payments.

*\*Sec. 18. RCW 26.23.035 and 1991 c 367 s 38 are each amended to read as follows:*

*(1) The department of social and health services shall adopt rules for the distribution of support money collected by the office of support enforcement. These rules shall:*

- (a) Comply with 42 U.S.C. Sec. 657;*
- (b) Direct the office of support enforcement to distribute support money within eight days of receipt, unless one of the following circumstances, or similar circumstances specified in the rules, prevents prompt distribution:
  - (i) The location of the custodial parent is unknown;*
  - (ii) The support debt is in litigation;*
  - (iii) The office of support enforcement cannot identify the responsible parent or the custodian;**
- (c) Provide for proportionate distribution of support payments if the responsible parent owes a support obligation or a support debt for two or more Title IV-D cases; and*
- (d) Authorize the distribution of support money, except money collected under 42 U.S.C. Sec. 664, to satisfy a support debt owed to the IV-D custodian before the debt owed to the state when the custodian stops receiving a public assistance grant.*

*(2) The office of support enforcement may distribute support payments to the payee under the support order or to another person who has lawful physical custody of the child or custody with the payee's consent. The payee may file an application for an adjudicative proceeding to challenge distribution to such other person. Prior to distributing support payments to any person other than the payee, the registry shall:*

- (a) Obtain a written statement from the child's physical custodian, under penalty of perjury, that the custodian has lawful custody of the child or custody with the payee's consent;*
- (b) Mail to the responsible parent and to the payee at the payee's last known address a copy of the physical custodian's statement and a notice which states that support payments will be sent to the physical custodian; and*
- (c) File a copy of the notice with the clerk of the court that entered the original support order.*

*(3) If the Washington state support registry distributes a support payment to a person in error, the registry may obtain restitution by means of a set-off against future payments received on behalf of the person receiving the erroneous payment, or may act according to RCW 74.20A.270 as deemed appropriate. Any set-off against future support payments shall be limited to amounts collected on the support debt and ten percent of amounts collected as current support.*

(4) If the Washington state support registry distributes a support payment to a payee under a support order or to another person who has lawful physical custody of the child or custody with the payee's consent, and the negotiable instrument received for such payment from the payer under a child support order is returned for nonsufficient funds, the registry shall obtain restitution from the payer under the child support order.

(5) If the Washington state support registry distributes funds collected under 42 U.S.C. Sec. 664 to a payee under a support order or to another person who has lawful physical custody of the child or custody with the payee's consent, and another person filing a joint return with the payer owing past due support under a child support order takes appropriate action to secure a share of the refund from which the withholding has been made, the registry shall obtain restitution from the payer under the child support order.

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

## PART VI. EMPLOYMENT PARTNERSHIP PROGRAM

Sec. 19. RCW 50.63.010 and 1986 c 172 s 1 are each amended to read as follows:

The legislature finds that the restructuring in the Washington economy has created rising public assistance caseloads and declining real wages for Washington workers. There is a profound need to develop partnership programs between the private and public sectors to create new jobs with adequate salaries and promotional opportunities for chronically unemployed and underemployed citizens of the state. Most public assistance recipients want to become financially independent through paid employment. A voluntary program which utilizes public wage subsidies and employer matching salaries has provided a beneficial financial incentive allowing public assistance recipients transition to permanent full-time employment.

Sec. 20. RCW 50.63.020 and 1986 c 172 s 2 are each amended to read as follows:

The employment partnership program is created to develop a series of geographically distributed model projects to provide permanent full-time employment for low-income and unemployed persons. The program shall be ~~((a cooperative effort between the employment security department and))~~ administered by the department of social and health services. The department shall contract for the program through local public or private nonprofit organizations. The goals of the program are as follows:

(1) To reduce inefficiencies in administration and provide model coordination of agencies with responsibilities for employment and human service delivery to unemployed persons;

(2) To create voluntary financial incentives to simultaneously reduce unemployment and welfare caseloads; ~~((and))~~

(3) To provide other state and federal support services to the client population to enable economic independence;

(4) To improve partnerships between the public and private sectors designed to move recipients of public assistance into productive employment; and

(5) To provide employers with information on federal targeted jobs tax credit and other state and federal tax incentives for participation in the program.

Sec. 21. RCW 50.63.030 and 1986 c 172 s 3 are each amended to read as follows:

The (~~commissioner of employment security and the~~) secretary of the department of social and health services shall establish pilot projects that enable grants to be used as a wage subsidy. The department of social and health services (~~is designated as the lead agency for the purpose of complying~~) shall comply with applicable federal statutes and regulations (~~The department~~), and shall seek any waivers from the federal government necessary to operate the employment partnership program. The projects shall be available on an individual case-by-case basis or subject to the limitations outlined in RCW 50.63.050 (as recodified by this act) for the start-up or reopening of a plant under worker ownership. The projects shall be subject to the following criteria:

(1) It shall be a voluntary program and no person may have any sanction applied for failure to participate.

(2) Employment positions established by this chapter shall not be created as the result of, nor result in, any of the following:

(a) Displacement of current employees, including overtime currently worked by these employees;

(b) The filling of positions that would otherwise be promotional opportunities for current employees;

(c) The filling of a position, before compliance with applicable personnel procedures or provisions of collective bargaining agreements;

(d) The filling of a position created by termination, layoff, or reduction in workforce;

(e) The filling of a work assignment customarily performed by a worker in a job classification within a recognized collective bargaining unit in that specific work site, or the filling of a work assignment in any bargaining unit in which funded positions are vacant or in which regular employees are on layoff;

(f) A strike, lockout, or other bona fide labor dispute, or violation of any existing collective bargaining agreement between employees and employers;

(g) Decertification of any collective bargaining unit.

(3) Wages shall be paid at the usual and customary rate of comparable jobs and may include a training wage if permitted by applicable federal statutes and regulations;

(4) A recoupment process shall recover state supplemented wages from an employer when a job does not last six months following the subsidization period for reasons other than the employee voluntarily quitting or being fired for good cause as determined by the (~~commissioner of employment security~~) local employment partnership council under rules prescribed by the (~~commissioner pursuant to chapter 50.20 RCW~~) secretary;

(5) Job placements shall have promotional opportunities or reasonable opportunities for wage increases;

(6) Other necessary support services such as training, day care, medical insurance, and transportation shall be provided to the extent possible;

(7) Employers shall provide monetary matching funds of at least fifty percent of total wages;

(8) Wages paid to participants shall be a minimum of five dollars an hour; and

(9) The projects shall target the ~~((hardest-to-employ))~~ populations in the priority and for the purposes set forth in RCW 74.25.020, to the extent that necessary support services are available.

**Sec. 22.** RCW 50.63.040 and 1986 c 172 s 4 are each amended to read as follows:

An employer, before becoming eligible to fill a position under the employment partnership program, shall certify to the ~~((department of employment security))~~ local employment partnership council that the employment, offer of employment, or work activity complies with the following conditions:

(1) The conditions of work are reasonable and not in violation of applicable federal, state, or local safety and health standards;

(2) The assignments are not in any way related to political, electoral, or partisan activities;

(3) The employer shall provide industrial insurance coverage as required by Title 51 RCW;

(4) The employer shall provide unemployment compensation coverage as required by Title 50 RCW;

(5) The employment partnership program participants hired following the completion of the program shall be provided benefits equal to those provided to other employees including social security coverage, sick leave, the opportunity to join a collective bargaining unit, and medical benefits.

**NEW SECTION.** **Sec. 23.** A local employment partnership council shall be established in each pilot project area to assist the department of social and health services in the administration of this chapter and to allow local flexibility in dealing with the particular needs of each pilot project area. Each council shall be primarily responsible for recruiting and encouraging participation of employment providers in the project site. Each council shall be composed of nine members who shall be appointed by the county legislative authority of the county in which the pilot project operates. Councilmembers shall be residents of or employers in the pilot project area in which they are appointed and shall serve three-year terms. The council shall have two members who are current or former recipients of the aid to families with dependent children program or food stamp program, two members who represent labor, and five members who represent the local business community. In addition, one person representing the local community service office of the department of social and health services,

one person representing a community action agency or other nonprofit service provider, and one person from a local city or county government shall serve as nonvoting members.

**Sec. 24.** RCW 50.63.060 and 1986 c 172 s 6 are each amended to read as follows:

Participants shall be considered recipients of aid to families with dependent children and remain eligible for medicaid benefits even if the participant does not receive a residual grant. Work supplementation participants shall be eligible for (1) the thirty-dollar plus one-third of earned income exclusion from income, (2) the work related expense disregard, and (3) ~~((the))~~ any applicable child care expense disregard deemed available to recipient of aid in computing his or her grant under this chapter, unless prohibited by federal law.

**Sec. 25.** RCW 50.63.090 and 1986 c 172 s 9 are each amended to read as follows:

The department of social and health services shall seek any federal funds available for implementation of this chapter, including, but not limited to, funds available under Title IV of the federal social security act (42 U.S.C. Sec. 601 et seq.) for the ~~((work incentive demonstration program, and the employment search program))~~ job opportunities and basic skills program.

NEW SECTION. **Sec. 26.** RCW 50.63.010, 50.63.020, 50.63.030, 50.63.040, 50.63.050, 50.63.060, 50.63.070, 50.63.080, and 50.63.090 are each recodified as a new chapter in Title 74 RCW.

NEW SECTION. **Sec. 27.** The department of social and health services shall report to the appropriate committees of the house of representatives and senate on the implementation of this employment partnership program for recipients of aid to families with dependent children by October 1, 1995.

NEW SECTION. **Sec. 28.** Section 23 of this act shall be codified in the new chapter created by section 26 of this act.

## PART VII. IMMUNIZATION

NEW SECTION. **Sec. 29.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department, in conjunction with local health jurisdictions, shall require each local health jurisdiction to submit an immunization assessment and enhancement proposal, consistent with the standards established in the public health improvement plan, to provide immunization protection to the children of the state to further reduce vaccine-preventable diseases.

(2) These plans shall include, but not be limited to:

(a) A description of the population groups in the jurisdiction that are in the greatest need of immunizations;

(b) A description of strategies to use outreach, volunteer, and other local educational resources to enhance immunization rates; and

(c) A description of the capacity required to accomplish the enhancement proposal.

(3) This section shall be implemented consistent with available funding.

(4) The secretary shall report through the public health improvement plan to the health care and fiscal committees of the legislature on the status of the program and progress made toward increasing immunization rates in population groups of greatest need.

***\*NEW SECTION. Sec. 30. The legislative budget committee shall conduct a program performance audit of the department of health's immunization program and report its findings to the legislature by no later than October 31, 1994. The program performance audit shall include (1) an analysis of the distribution and utilization of vaccines by local health departments and private physicians, (2) an identification of destroyed and unused amounts of vaccine, and (3) an evaluation of the department of health's program to increase the rate of vaccination of children two years old and under. The department of health shall allocate \$40,000 or so much thereof as may be necessary from its 1993-95 general fund — state appropriation to the legislative budget committee for the purposes of the program performance audit required by this section.***

\*Sec. 30 was vetoed, see message at end of chapter.

#### PART VIII. CHILD'S RESOURCES

Sec. 31. RCW 74.12.350 and 1979 c 141 s 354 are each amended to read as follows:

The department of social and health services is hereby authorized to promulgate rules and regulations in conformity with the provisions of Public Law 87-543 to allow all or any portion of a dependent child's earned or other income to be set aside for the identifiable future needs of the dependent child which will make possible the realization of the child's maximum potential as an independent and useful citizen.

The transfer into, or accumulation of, a child's income or resources in an irrevocable trust account is hereby allowed. The amount allowable is four thousand dollars. The department will provide income assistance recipients with clear and simple information on how to set up educational accounts, including how to assure that the accounts comply with federal law by being adequately earmarked for future educational use, and are irrevocable.

**NEW SECTION. Sec. 32.** RCW 74.12.360 and 1993 c 312 s 10 are each repealed.

**NEW SECTION. Sec. 33.** A new section is added to chapter 74.12 RCW to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and either pregnant or having a dependent child in the applicant's care. Appropriate living situations shall

include a place of residence maintained by the applicant's parent, legal guardian, or other adult relative as their own home, or other appropriate supportive living arrangement supervised by an adult where feasible and consistent with federal regulations under 45 C.F.R. chapter II, section 233.107.

(2) An applicant under eighteen years of age who is either pregnant or has a dependent child and is not living in a situation described in subsection (1) of this section shall be presumed to be unable to manage adequately the funds paid on behalf of the dependent child and, unless the teenage custodial parent demonstrates otherwise, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the teen recipient as to an appropriate living situation for the teen, whether in the parental home or other situation. If the parents of the teen head of household applicant for assistance request, they shall be entitled to a hearing in juvenile court regarding the fitness and suitability of their home as the top priority choice for the pregnant or parenting teen applicant for assistance.

The parents shall have the opportunity to make a showing, based on the preponderance of the evidence, that the parental home is the most appropriate living situation.

(4) In cases in which the head of household is under eighteen years of age, unmarried, unemployed, and requests information on adoption, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations for counseling.

**NEW SECTION.** Sec. 34. A new section is added to chapter 74.04 RCW to read as follows:

(1) The department shall determine, after consideration of all relevant factors and in consultation with the applicant, the most appropriate living situation for applicants under eighteen years of age, unmarried, and pregnant who are eligible for general assistance as defined in RCW 74.04.005 (6)(a)(ii)(A). Appropriate living situations shall include a place of residence maintained by the applicant's parent, legal guardian, or other adult relative as their own home, or other appropriate supportive living arrangement supervised by an adult where feasible and consistent with federal regulations under 45 C.F.R. chapter II, section 233.107.

(2) An applicant under eighteen years of age who is pregnant and is not living in a situation described in subsection (1) of this section shall be presumed to be unable to manage adequately the funds paid on behalf of the dependent child and, unless the teenage custodial parent demonstrates otherwise, shall be subject to the protective payee requirements provided for under RCW 74.12.250 and 74.08.280.

(3) The department shall consider any statements or opinions by either parent of the teen recipient as to an appropriate living situation for the teen, whether in the parental home or other situation. If the parents of the teen head

of household applicant for assistance request, they shall be entitled to a hearing in juvenile court regarding the fitness and suitability of their home as the top priority choice for the pregnant or parenting teen applicant for assistance.

The parents shall have the opportunity to make a showing, based on the preponderance of the evidence, that the parental home is the most appropriate living situation.

(4) In cases in which the head of household is under eighteen years of age, unmarried, unemployed, and requests information on adoption, the department shall, as part of the determination of the appropriate living situation, provide information about adoption including referral to community-based organizations for counseling.

### PART IX. MISCELLANEOUS

NEW SECTION. Sec. 35. A new section is added to chapter 74.12 RCW to read as follows:

The department shall actively develop mechanisms for the income assistance program, the medical assistance program, and the community services administration to facilitate the enrollment in the federal supplemental security income program of disabled persons currently part of assistance units receiving aid to families with dependent children benefits.

NEW SECTION. Sec. 36. A new section is added to chapter 69.80 RCW to read as follows:

(1) This section may be cited as the "Good Samaritan Food Donation Act."

(2) As used in this section:

(a) "Apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(b) "Apparently wholesome food" means food that meets all quality and labeling standards imposed by federal, state, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other conditions.

(c) "Donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(d) "Food" means a raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(e) "Gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.



(f) "Grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(g) "Gross negligence" means voluntary and conscious conduct by a person with knowledge, at the time of the conduct, that the conduct is likely to be harmful to the health or well-being of another person.

(h) "Intentional misconduct" means conduct by a person with knowledge, at the time of the conduct, that the conduct is harmful to the health or well-being of another person.

(i) "Nonprofit organization" means an incorporated or unincorporated entity that:

(i) Is operating for religious, charitable, or educational purposes; and

(ii) Does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(j) "Person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, councilmember, or other elected or appointed individual responsible for the governance of the entity.

(3) A person or gleaner is not subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this subsection does not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(4) A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals is not subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this subsection does not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(5) If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by federal, state, and local laws and regulations, the person or gleaner who donates the food and grocery products is not subject to civil or criminal liability in accordance with this section if the nonprofit organization that receives the donated food or grocery products:

(a) Is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(b) Agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(c) Is knowledgeable of the standards to properly recondition the donated food or grocery product.

(6) This section may not be construed to create liability.

NEW SECTION. Sec. 37. RCW 69.80.030 and 1983 c 241 s 3 are each repealed.

Sec. 38. RCW 69.80.900 and 1983 c 241 s 5 are each amended to read as follows:

Nothing in this chapter may be construed to create any liability of, or penalty against a donor or distributing organization except as provided in ((RCW 69.80.030)) section 36 of this act.

NEW SECTION. Sec. 39. A new section is added to chapter 74.12 RCW to read as follows:

By October 1, 1994, the department shall request the governor to seek congressional action on any federal legislation that may be necessary to implement any sections of chapter . . . , Laws of 1994 (this act). By October 1, 1994, the department shall request the governor to seek federal agency action on any federal regulation that may require a federal waiver.

NEW SECTION. Sec. 40. 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. 41. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 42. Section 7 of this act shall take effect July 1, 1995.

NEW SECTION. Sec. 43. Part headings as used in this act constitute no part of the law.

Passed the House March 10, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 2, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1994.

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

"I am returning herewith, without my approval as to sections 7, 14, 15, 18, and 30, Engrossed Second Substitute House Bill No. 2798 entitled:

"AN ACT Relating to public assistance reform;"

Engrossed Second Substitute House Bill No. 2798 is a comprehensive plan to reform our welfare system. It directs efforts toward education, job readiness, teen pregnancy, and obstacles to achieving economic independence. Welfare recipients and all the residents of our state will benefit from the reforms established in this bill.

This legislation emphasizes the temporary nature of welfare for recipients who are not incapacitated or caring for young children. Sanctions will be gradually implemented for the few adults who are not participating in efforts to become self-sufficient. These changes provide first steps toward future efforts to link the welfare system to the labor market.

Section 7 contains language regarding mandates and target groups for self-sufficiency efforts which already exist in federal law and are being implemented in Washington State. For instance, increasing numbers of young parents under age 24 must be working or searching for work. This section, however, prohibits the granting of public assistance to people pursuing a liberal arts education. This conflicts with the need to encourage self-sufficiency. The mandate to sanction parents when a child becomes age three instead of age six, does not take into consideration the benefits of parenting and the stresses on low-income families. For these reasons, I am vetoing section 7.

Section 14 requires the Department of Social and Health Services to report the amount of a child support obligation to consumer reporting agencies operating in the state of Washington. The effect of this condition is to require the Support Enforcement Division to report all child support obligations, regardless of delinquency, amount, or request. I believe this section is too broad and that it could impair the ability of parents to obtain credit, even when those parents are current in their child support obligations. Currently, Support Enforcement reports, as required by federal law, only debtors who are at least \$1,000 in arrears on their child support obligation. I believe the department's use of the federally mandated credit bureau reporting program meets the intent of this section without adversely affecting complying parents. For these reasons, I am vetoing section 14.

Section 15 requires the Support Enforcement Division to contract with private collection agencies to pursue overdue child support amounts in all cases that might otherwise consume a disproportionate share of the office's collection efforts. Private collection agencies cannot avail themselves of administrative remedies that are available solely to the Support Enforcement Division. Consequently, where the state would be minimizing costs and providing speedy dispute resolution in the administrative forum, private collectors would force more and more cases into an already overburdened court system with accompanying delays and increased costs to all parties involved. Also, private child support collection will not be provided free of charge. The normal fee for this service is approximately 25 percent of the amount collected. This issue needs more analysis of the fiscal impacts to the state and the effect it would have on our court system. For these reasons, I am vetoing section 15.

Section 18 directs the Support Enforcement Division to obtain restitution from the payer under a child support order when money is either paid by check that is later dishonored for non-sufficient funds, or when there is an IRS tax refund that must later be refunded to a joint filer under federal law. While section 18 directs the department to seek restitution from the payer, it does not provide a mechanism to ensure these monies are recovered. This section, as written, is ambiguous, will be administratively burdensome to the department, and has unclear fiscal implications. I will ask the department to review its process, consult with other interested parties, and introduce legislation next session to address this issue. For these reasons, I am vetoing section 18.

Section 30 requires the Legislative Budget Committee (LBC) to conduct a program performance audit of the Department of Health's Immunization Program and to report its findings to the legislature by no later than October 31, 1994. The Department of Health is directed to allocate \$40,000, or so much as necessary of its general fund-state

appropriation, to LBC for this audit. No funding is appropriated for this audit. The Department of Health began internal program and fiscal reviews of their Immunization Program in December, 1993. These reviews will provide consistent and verifiable ways to project and validate inventory needs and costs for current and future biennia. They will also allow us to evaluate and develop programs to increase access for childhood vaccinations. An LBC performance audit would be an unnecessary duplication of these reviews. This section would also set a precedent for funding studies or audits from allocations from one agency to another. For these reasons, I am vetoing section 30.

With the exception of sections 7, 14, 15, 18 and 30, Engrossed Second Substitute House Bill No. 2798 is approved."

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## CHAPTER 300

[Engrossed Substitute House Bill 2815]

### STATE PROCUREMENT—THRESHOLDS AND INVITATIONS TO BID

AN ACT Relating to reforming state procurement practices; and amending RCW 43.19.1906 and 43.19.1908.

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

**Sec. 1.** RCW 43.19.1906 and 1993 c 379 s 103 are each 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 ~~((five))~~ 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 ~~((five))~~ 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 ~~((five))~~ 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 four hundred dollars to ~~((five))~~ thirty-five thousand dollars, or subsequent limits as calculated

by the office of financial management, shall be secured from ~~((enough))~~ 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 four hundred dollars to ~~((five))~~ thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes ~~((on a standard state form approved by the forms management center under the provisions of RCW 43.19.510)).~~ Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars with the approval of at least ten of the members of the state supply management advisory board, if warranted by increases in purchasing costs due to inflationary trends;

(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 under RCW 43.19.1935;

(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 by institutions of higher education not exceeding ~~((fifteen))~~ thirty-five thousand dollars: PROVIDED, That for purchases between two thousand five hundred dollars and ~~((fifteen))~~ thirty-five thousand dollars quotations shall be secured from ~~((enough))~~ 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 two thousand five hundred 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 two thousand five hundred to ~~((fifteen))~~ thirty-five thousand dollars shall be documented for audit purposes; and

(8) 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.

**Sec. 2.** RCW 43.19.1908 and 1965 c 8 s 43.19.1908 are each amended to read as follows:

Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in writing and conform to rules of the division of purchasing.

Passed the House March 9, 1994.

Passed the Senate March 9, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

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## CHAPTER 301

[Second Substitute Senate Bill 5372]

### TAXES—REVISIONS REGARDING TREASURER AND ASSESSOR DUTIES, TAX LIENS, DEBIT CARDS, MOBILE HOME MOVING DECAL DISPLAY— COUNTY EMPLOYEE PAY PERIODS

AN ACT Relating to taxation; amending RCW 3.02.045, 9.46.110, 28A.315.440, 35.49.130, 36.17.042, 36.21.011, 36.29.010, 36.32.120, 39.44.130, 39.46.020, 39.46.030, 39.46.110, 39.50.030, 43.80.125, 46.44.175, 58.08.040, 84.08.130, 84.08.140, 84.12.270, 84.12.310, 84.12.330, 84.12.350, 84.12.360, 84.12.370, 84.16.040, 84.16.050, 84.16.090, 84.16.110, 84.16.120, 84.16.130, 84.33.130, 84.34.230, 84.38.040, 84.40.0301, 84.40.045, 84.40.080, 84.40.090, 84.40.170, 84.41.070, 84.44.010, 84.48.050, 84.48.080, 84.48.110, 84.48.120, 84.48.150, 84.55.005, 84.56.010, 84.56.160, 84.56.170, 84.56.340, 84.60.050, 84.69.020, and 84.70.010; adding a new section to chapter 82.03 RCW; adding a new section to chapter 84.48 RCW; adding a new section to chapter 84.56 RCW; repealing RCW 35.49.120, 36.21.020, 36.21.030, 84.56.023, 36.18.140, and 84.56.180; and prescribing penalties.

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

**Sec. 1.** RCW 3.02.045 and 1987 c 266 s 1 are each amended to read as follows:

(1) Courts of limited jurisdiction may use collection agencies under chapter 19.16 RCW for purposes of collecting unpaid penalties on infractions, criminal fines, costs, assessments, civil judgments, or forfeitures that have been imposed by the courts. Courts of limited jurisdiction may enter into agreements with one or more attorneys or collection agencies for collection of outstanding penalties, fines, costs, assessments, and forfeitures. These agreements may specify the scope of work, remuneration for services, and other charges deemed appropriate.

(2) Courts of limited jurisdiction may use credit cards or debit cards for purposes of billing and collecting unpaid penalties, fines, costs, assessments, and forfeitures so imposed. Courts of limited jurisdiction may enter into agreements with one or more financial institutions for the purpose of the collection of penalties, fines, costs, assessments, and forfeitures. The agreements may specify conditions, remuneration for services, and other charges deemed appropriate.

(3) Servicing of delinquencies by collection agencies or by collecting attorneys in which the court retains control of its delinquencies shall not constitute assignment of debt.

(4) For purposes of this section, the term debt shall include penalties, fines, costs, assessments, or forfeitures imposed by the courts.

(5) The court may assess as court costs the moneys paid for remuneration for services or charges paid to collecting attorneys, to collection agencies, or, in the case of credit cards, to financial institutions.

**Sec. 2.** RCW 9.46.110 and 1991 c 161 s 1 are each amended to read as follows:

The legislative authority of any county, city-county, city, or town, by local law and ordinance, and in accordance with the provisions of this chapter and rules and regulations promulgated hereunder, may provide for the taxing of any gambling activity authorized by this chapter within its jurisdiction, the tax receipts to go to the county, city-county, city, or town so taxing the same: PROVIDED, That any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located therein but the tax rate established by a county, if any, shall constitute the tax rate throughout the unincorporated areas of such county: PROVIDED FURTHER, That (1) punch boards and pull-tabs, chances on which shall only be sold to adults, which shall have a fifty cent limit on a single chance thereon, shall be taxed on a basis which shall reflect only the gross receipts from such punch boards and pull-tabs; and (2) no punch board or pull-tab may award as a prize upon a winning number or symbol being drawn the opportunity of taking a chance upon any other punch board or pull-tab; and (3) all prizes for punch boards and pull-tabs must be on display within the immediate area of the premises wherein any such punch board or pull-tab is located and upon a winning number or symbol being drawn, such prize must be immediately removed therefrom, or such omission shall be deemed a fraud for the purposes of this chapter; and (4) when any person shall win over

twenty dollars in money or merchandise from any punch board or pull-tab, every licensee hereunder shall keep a public record thereof for at least ninety days thereafter containing such information as the commission shall deem necessary: AND PROVIDED FURTHER, That taxation of bingo and raffles shall never be in an amount greater than ten percent of the gross revenue received therefrom less the amount paid for or as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual costs of enforcement of the provisions of this chapter by the county, city or town law enforcement agency and in no event shall such taxation exceed two percent of the gross revenue therefrom less the amount paid for as prizes: PROVIDED FURTHER, That no tax shall be imposed under the authority of this chapter on bingo or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in this chapter, which organization has no paid operating or management personnel and has gross income from bingo or amusement games, or a combination thereof, not exceeding five thousand dollars per year, less the amount paid for as prizes. No tax shall be imposed on the first ten thousand dollars of net proceeds from raffles conducted by any bona fide charitable or nonprofit organization as defined in this chapter. Taxation of punch boards and pull-tabs shall not exceed five percent of gross receipts, nor shall taxation of social card games exceed twenty percent of the gross revenue from such games.

Taxes imposed under this chapter become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

**Sec. 3.** RCW 28A.315.440 and 1975 1st ex.s. c 275 s 99 are each amended to read as follows:

Upon receipt of the aforesaid certificate, it shall be the duty of the (~~board of county commissioners~~) county legislative authority of each county to levy on all taxable property of that part of the joint school district which lies within the county a tax sufficient to raise the amount necessary to meet the county's proportionate share of the estimated expenditures of the joint district, as shown by the certificate of the educational service district superintendent of the district to which the joint school district belongs. Such taxes shall be levied and collected in the same manner as other taxes are levied and collected, and the proceeds thereof shall be forwarded (~~quarterly~~) monthly by the treasurer of each county, other than the county to which the joint district belongs, to the treasurer of the county to which such district belongs and shall be placed to the credit of said district. The treasurer of the county to which a joint school district belongs is hereby declared to be the treasurer of such district.

**Sec. 4.** RCW 35.49.130 and 1965 c 7 s 35.49.130 are each amended to read as follows:



~~((In county foreclosures for delinquency in the payment of general taxes, the county treasurer shall mail a copy of the published summons to the treasurer of every city and town within which any property involved in the foreclosure proceeding is situated. The copy of the summons shall be mailed within fifteen days after the first publication thereof, but the county treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of the tax sought to be foreclosed.))~~

If any property situated in a local improvement district or utility local improvement district created by a city or town is offered for sale for general taxes by the county treasurer, the city or town shall have power to protect the lien or liens of any local improvement assessments outstanding against the whole or portion of such property by purchase ~~((thereof or otherwise))~~ at the treasurer's foreclosure sale.

**Sec. 5.** RCW 36.17.042 and 1977 c 42 s 1 are each amended to read as follows:

In addition to the pay periods permitted under RCW 36.17.040, the legislative authority of any county may establish a biweekly pay period where county officers and employees receive their compensation not later than seven days following the end of each two week pay period for services rendered during that pay period.

However, in a county that has assumed the rights, powers, functions, and obligations of a metropolitan municipal corporation under chapter 36.56 RCW, the county legislative authority may establish a biweekly pay period where the county officers and employees receive their compensation not later than thirteen days following the end of each two-week pay period for services rendered during that pay period.

**Sec. 6.** RCW 36.21.011 and 1973 1st ex.s. c 11 s 1 are each amended to read as follows:

Any assessor who deems it necessary to enable him or her to complete the listing and the valuation of the property of his or her county within the time prescribed by law, (1) may appoint one or more well qualified persons to act as ~~((his))~~ assistants or deputies who shall not engage in the private practice of appraising within the county ~~((in which he is))~~ where employed without the written permission of the county assessor filed with the county auditor; and each such assistant or deputy so appointed shall, under the direction of the assessor, after taking the required oath, perform all the duties enjoined upon, vested in or imposed upon assessors, and (2) may contract with any persons, firms or corporations, who are expert appraisers, to assist in the valuation of property.

To assist each assessor in obtaining adequate and well qualified assistants or deputies, the state department of personnel, after consultation with the Washington state association of county assessors, the Washington state association of counties, and the department of revenue, shall establish by July 1, 1967, and shall thereafter maintain, a classification and salary plan for those

employees of an assessor who act as appraisers. The plan shall recommend the salary range and employment qualifications for each position encompassed by it, and shall, to the fullest extent practicable, conform to the classification plan, salary schedules and employment qualifications for state employees performing similar appraisal functions.

~~((f))~~ An assessor who intends to put such plan into effect ~~((in his county, he))~~ shall inform the department of revenue and ~~the ((board of))~~ county ~~((commissioners))~~ legislative authority of this intent in writing. The department of revenue and the ~~((board))~~ authority may thereupon each designate a representative, and such representative or representatives as may be designated by the department of revenue or the ~~((board))~~ legislative authority, or both, shall form with the assessor a committee. The committee so formed may, by unanimous vote only, determine the required number of certified appraiser positions and their salaries necessary to enable the county assessor to carry out the requirements relating to revaluation of property in chapter 84.41 RCW. The determination of the committee shall be certified to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority. The committee provided for herein may be formed only once in a period of four calendar years.

After such determination, the assessor may provide, in each of ~~((his))~~ the four next succeeding annual budget estimates, for as many positions as are established in such determination. Each ~~((board of))~~ county ~~((commissioners))~~ legislative authority to which such a budget estimate is submitted shall allow sufficient funds for such positions. An employee may be appointed to a position covered by the plan only if the employee meets the employment qualifications established by the plan.

**Sec. 7.** RCW 36.29.010 and 1991 c 245 s 4 are each amended to read as follows:

The county treasurer:

(1) Shall receive all money due the county and disburse it on warrants issued and attested by the county auditor;

(2) Shall issue a receipt in duplicate for all money received other than taxes; the treasurer shall deliver immediately to the person making the payment the original receipt and the duplicate shall be retained by the treasurer;

(3) Shall affix on the face of all paid warrants the date of redemption or, in the case of proper contract between the treasurer and a qualified public depository, the treasurer may consider the date affixed by the financial institution as the date of redemption;

(4) Shall indorse, before the date of issue by the county or by any taxing district for whom the county treasurer acts as treasurer, on the face of all warrants for which there are not sufficient funds for payment, "interest bearing warrant." ~~((and))~~ When there are funds to redeem outstanding warrants, the county treasurer shall give notice:

(a) By publication in a legal newspaper published or circulated in the county; or

(b) By posting at three public places in the county if there is no such newspaper; or

(c) By notification to the financial institution holding the warrant;

(5) Shall pay interest on all interest-bearing warrants from the date of issue to the date of notification;

(6) Shall maintain financial records reflecting receipts and disbursement by fund in accordance with generally accepted accounting principles;

(7) Shall account for and pay all bonded indebtedness for the county and all special districts for which the county treasurer acts as treasurer;

(8) Shall invest all funds of the county or any special district in the treasurer's custody, not needed for immediate expenditure, in a manner consistent with appropriate statutes. If cash is needed to redeem warrants issued from any fund in the custody of the treasurer, the treasurer shall liquidate investments in an amount sufficient to cover such warrant redemptions; and

(9) May provide certain collection services for county departments.

The treasurer, at the expiration of the term of office, shall make a complete settlement with the county legislative authority, and shall deliver to the successor all public money, books, and papers in the treasurer's possession.

**Sec. 8.** RCW 36.32.120 and 1993 c 83 s 9 are each amended to read as follows:

The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted at fees set by the legislative authorities which shall not exceed the costs of administration and operation of such licensed activities;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law(~~); PROVIDED, That the legislative authority of a county may permit all moneys, assessments, and taxes belonging to or collected for the use of the state or any county, including any amounts representing estimates for future assessments and taxes, to be deposited by any taxpayer prior to the due date thereof with the treasurer or other legal depository for the benefit of the funds to which they belong to be credited against any future tax or assessment that may be levied or become due from the taxpayer. PROVIDED FURTHER, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited~~);

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: PROVIDED, That except for Washington state statutes, there shall be filed in the county auditor's office one copy of such codes and compilations ten days prior to their adoption by reference, and additional copies may also be filed in library or city offices within the county as deemed necessary by the county legislative authority: PROVIDED FURTHER, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor or a civil violation subject to a monetary penalty: PROVIDED FURTHER, That violation of a regulation, ordinance, code, compilation, and/or statute relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a regulation, ordinance, code, compilation, and/or statute equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime and no act that is a state crime may be made a civil violation. The notice must set out a copy of the proposed regulations or summarize the content of each proposed regulation; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. For purposes of this subsection, a summary shall mean a brief description which succinctly describes the main points of the proposed regulation. When the county publishes a summary, the publication shall include a statement that the full text of the proposed regulation will be mailed upon request. An inadvertent mistake or omission in publishing the text or a summary of the content of a proposed regulation shall not render the regulation invalid if it is adopted. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as district judges.

**Sec. 9.** RCW 39.44.130 and 1985 c 84 s 2 are each amended to read as follows:

(1) The duties prescribed in this chapter as to the registration of bonds of any city or town shall be performed by the treasurer thereof, and as to those of any county, port or school district by the county treasurer of the county in which such port or school district lies; but any ~~((county, city, town, port or school district may designate by resolution any other officer for the performance of such duties, and any county, city, town, port or school district))~~ treasurer as defined in RCW 39.46.020 may designate ~~((by resolution))~~ its legally designated fiscal agency or agencies for the performance of such duties, after making arrangements with such fiscal agency therefor, which arrangements may include provision for the payment by the bond owner of a fee for each registration.

~~(2) ((Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision is made.))~~ The county treasurer as ex officio treasurer of a special district shall act as fiscal agent or may appoint the fiscal agent to be used by the county.

**Sec. 10.** RCW 39.46.020 and 1983 c 167 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) "Bond" means any agreement which may or may not be represented by a physical instrument, including notes, warrants, or certificates of indebtedness, that evidences an indebtedness of the state or a local government or a fund thereof, where the state or local government agrees to pay a specified amount of money, with or without interest, at a designated time or times to either 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 created by such an entity.

(3) "Obligation" means an agreement that evidences an indebtedness of the state or a local government, other than a bond, and includes, but is not limited to, conditional sales contracts, lease obligations, and promissory notes.

(4) "State" includes the state, agencies of the state, and public corporations created by the state or agencies of the state.

(5) "Treasurer" means the state treasurer, county treasurer, city treasurer, or treasurer of any other municipal corporation.

**Sec. 11.** RCW 39.46.030 and 1985 c 84 s 1 are each amended to read as follows:

(1) The state and local governments are authorized to establish a system of registering the ownership of their bonds or other obligations as to principal and interest, or principal only. Registration may include, without limitation: (a) A book entry system of recording the ownership of a bond or other obligation whether or not a physical instrument is issued; or (b) recording the ownership of a bond or other obligation together with the requirement that the transfer of ownership may only be effected by the surrender of the old bond or other obligation and either the reissuance of the old bond or other obligation or the issuance of a new bond or other obligation to the new owner.

(2) The system of registration shall define the method or methods by which transfer of the registered bonds or other obligations shall be effective, and by which payment of principal and any interest shall be made. The system of registration may permit the issuance of bonds or other obligations in any denomination to represent several registered bonds or other obligations of smaller denominations. The system of registration may also provide for any writing relating to a bond or other obligation that is not issued as a physical instrument, for identifying numbers or other designations, for a sufficient supply of certificates for subsequent transfers, for record and payment dates, for varying denominations, for communications to the owners of bonds or other obligations, for accounting, canceled certificate destruction, registration and release of securing interests, and for such other incidental matters pertaining to the registration of bonds or other obligations as the issuer may deem to be necessary or appropriate.

(3)(a) The state treasurer or a local ((government)) treasurer may appoint (i) one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or (ii) other fiscal agents to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency so acting. The state ((and)) treasurer or local ((governments)) treasurers may also enter into agreements with the fiscal agency or agencies in connection with the establishment and maintenance by such fiscal agency or agencies of a central depository system for the transfer or pledge of bonds or other obligations.

(b) ~~((Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision~~

~~is made-)~~ The county treasurer as ex officio treasurer of a special district shall act as fiscal agent for such special district, unless the county treasurer appoints either one or more of the fiscal agencies appointed from time to time by the state finance committee in accordance with chapter 43.80 RCW or other fiscal agents selected in a manner consistent with RCW 43.80.120 to act with respect to an issue of its bonds or other obligations as authenticating trustee, transfer agent, registrar, and paying or other agent and specify the rights and duties and means of compensation of any such fiscal agency.

(4) Nothing in this section precludes the issuer, or a trustee appointed by the issuer pursuant to any other provision of law, from itself performing, either alone or jointly with other issuers, fiscal agencies, or trustees, any transfer, registration, authentication, payment, or other function described in this section.

**Sec. 12.** RCW 39.46.110 and 1984 c 186 s 2 are each amended to read as follows:

(1) General obligation bonds of local governments shall be subject to this section. Unless otherwise stated in law, the maximum term of any general obligation bond issue shall be forty years.

(2) General obligation bonds constitute an indebtedness of the local government issuing the bonds that are subject to the indebtedness limitations provided in Article VIII, section 6 of the state Constitution and are payable from tax revenues of the local government and such other money lawfully available and pledged or provided by the governing body of the local government for that purpose. Such governing body may pledge the full faith, credit and resources of the local government for the payment of general obligation bonds. The payment of such bonds shall be enforceable in mandamus against the local government and its officials. The officials now or hereafter charged by law with the duty of levying taxes pledged for the payment of general obligation bonds and interest thereon shall, in the manner provided by law, make an annual levy of such taxes sufficient together with other moneys lawfully available and pledge therefor to meet the payments of principal and interest on said bonds as they come due.

(3) General obligation bonds issued as physical instruments shall be executed in the manner determined by the governing body or legislative body of the issuer. If the issuer is a special district for which the county treasurer is the treasurer, the issuer shall notify the county treasurer at least thirty days in advance of authorizing the issuance of bonds or the incurrence of other certificates of indebtedness.

(4) Unless another statute specifically provides otherwise, the owner of a general obligation bond, or the owner of an interest coupon, issued by a local government shall not have any claim against the state arising from the general obligation bond or interest coupon.

(5) As used in this section, the term "local government" means every unit of local government, including municipal corporations, quasi municipal corporations, and political subdivisions, where property ownership is not a prerequisite to vote in the local government's elections.

**Sec. 13.** RCW 39.50.030 and 1985 c 71 s 1 are each amended to read as follows:

(1) The issuance of short-term obligations shall be authorized by ordinance of the governing body which ordinance shall fix the maximum amount of the obligations to be issued or, if applicable, the maximum amount which may be outstanding at any time, the maximum term and interest rate or rates to be borne thereby, the manner of sale, maximum price, form including bearer or registered as provided in RCW 39.46.030, terms, conditions, and the covenants thereof. The ordinance may provide for designation and employment of a paying agent for the short-term obligations and may authorize a designated representative of the municipal corporation, or if the county, the county treasurer to act on its behalf and subject to the terms of the ordinance in selling and delivering short-term obligations authorized and fixing the dates, price, interest rates, and other details as may be specified in the ordinance. Short-term obligations issued under this section shall bear such fixed or variable rate or rates of interest as the governing body considers to be in the best interests of the municipal corporation. Variable rates of interest may be fixed in relationship to such standard or index as the governing body designates.

The governing body may make contracts for the future sale of short-term obligations pursuant to which the purchasers are committed to purchase the short-term obligations from time to time on the terms and conditions stated in the contract, and may pay such consideration as it considers proper for the commitments. Short-term obligations issued in anticipation of the receipt of taxes shall be paid within six months from the end of the fiscal year in which they are issued. For the purpose of this subsection, short-term obligations issued in anticipation of the sale of general obligation bonds shall not be considered to be obligations issued in anticipation of the receipt of taxes.

(2) Notwithstanding subsection (1) of this section, such short-term obligations may be issued and sold in accordance with chapter 39.46 RCW.

**Sec. 14.** RCW 43.80.125 and 1985 c 84 s 3 are each amended to read as follows:

(1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local ~~((government))~~ treasurer to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in



connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner.

~~((3) Local government units for which the county treasurer serves as ex officio treasurer of the district may, with the consent of the county treasurer, appoint the county treasurer to serve as the fiscal agency. If such local government units decide to utilize the services of a fiscal agency other than the county treasurer, the county treasurer shall be notified at the time the decision is made.))~~

**Sec. 15.** RCW 46.44.175 and 1985 c 22 s 2 are each amended to read as follows:

Failure of any person or agent acting for a person who causes to be moved or moves a mobile home as defined in RCW 46.04.302 upon public highways of this state and failure to comply with any of the provisions of RCW 46.44.170 and 46.44.173 is a traffic infraction for which a penalty of not less than one hundred dollars or more than five hundred dollars shall be assessed. In addition to the above penalty, the department of transportation or local authority may withhold issuance of a special permit or suspend a continuous special permit as provided by RCW 46.44.090 and 46.44.093 for a period of not less than thirty days.

Any person who shall alter, re-use, transfer, or forge the decal required by RCW 46.44.170, or who shall display a decal knowing it to have been forged, re-used, transferred, or altered, shall be guilty of a gross misdemeanor.

Any person or agent who is denied a special permit or whose special permit is suspended may upon request receive a hearing before the department of transportation or the local authority having jurisdiction. The department or the local authority after such hearing may revise its previous action.

**Sec. 16.** RCW 58.08.040 and 1991 c 245 s 14 are each amended to read as follows:

Any person filing a plat, replat, altered plat, or binding site plan subsequent to May 31st in any year and prior to the date of the collection of taxes in the ensuing year, shall deposit with the county treasurer a sum equal to the product of the county assessor's latest valuation on the ~~((unimproved))~~ property less improvements in such subdivision multiplied by the current year's dollar rate increased by twenty-five percent on the property platted. The treasurer's receipt shall be evidence of the payment. The treasurer shall appropriate so much of the deposit as will pay the taxes on the property when the ~~((tax rolls))~~ levy rates are certified by the assessor ~~((for collection))~~ using the value of the property at the time of filing a plat, replat, altered plat, or binding site plan, and in case the sum

deposited is in excess of the amount necessary for the payment of the taxes, the treasurer shall return, to the party depositing, the amount of excess.

**NEW SECTION.** Sec. 17. A new section is added to chapter 82.03 RCW to read as follows:

In all appeals taken pursuant to RCW 84.08.130 the assessor or taxpayer shall submit evidence of comparable sales to be used in a hearing to the board and to all parties at least ten business days in advance of such hearing. Failure to comply with the requirements set forth in this section shall be grounds for the board, upon objection, to continue the hearing or refuse to consider evidence not timely submitted.

Sec. 18. RCW 84.08.130 and 1992 c 206 s 10 are each amended to read as follows:

(1) Any taxpayer or taxing unit feeling aggrieved by the action of any county board of equalization may appeal to the board of tax appeals by filing with the ~~((county auditor))~~ board of tax appeals a notice of appeal ~~((in duplicate))~~ within thirty days after the mailing of the decision of such board of equalization, which notice shall specify the actions complained of ~~((, and said auditor shall forthwith transmit one of said notices to the board of tax appeals))~~; and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization. There shall be no fee charged for the filing of an appeal. The petitioner shall ~~((provide))~~ serve a copy of the notice of appeal ~~((to))~~ on all named parties within the same thirty-day time period ~~((provided in the rules of practice and procedure of the board of tax appeals))~~. Appeals which are not filed and served as provided in this section shall be ~~((continued or))~~ dismissed. The board of tax appeals shall require the board appealed from to file a true and correct copy of its decision in such action and all evidence taken in connection therewith, and may receive further evidence, and shall make such order as in its judgment is just and proper. An appeal of an action by a county board of equalization shall be deemed to have been filed and served within the thirty-day period if it is postmarked on or before the thirtieth day after the mailing of the decision of the board of equalization.

(2) The board of tax appeals may enter an order, pursuant to subsection (1) of this section, that has effect up to the end of the assessment cycle used by the assessor, if there has been no intervening change in the value during that time.

Sec. 19. RCW 84.08.140 and 1975 1st ex.s. c 278 s 157 are each amended to read as follows:

Any taxpayer feeling aggrieved by the levy or levies of any taxing district except levies authorized by a vote of the ~~((people))~~ voters of the district may appeal therefrom to the department of revenue as hereinafter provided. Such taxpayer, upon the execution of a bond, with two or more sufficient sureties to be approved by the county auditor, payable to the state of Washington, in the penal sum of two hundred dollars and conditioned that if the petitioner shall fail in his appeal for a reduction of said levy or levies ~~((he))~~ the taxpayer will pay

the taxable costs of the hearings hereinafter provided, not exceeding the amount of such bond, may file a written complaint with the county auditor wherein such taxing district is located not later than ten days after the making and entering of such levy or levies, setting forth in such form and detail as the department of revenue shall by general rule prescribe, ~~((his))~~ the taxpayer's objections to such levy or levies. Upon the filing of such complaint, the county auditor shall immediately transmit a certified copy thereof, together with a copy of the budget or estimates of such taxing district as finally adopted, including estimated revenues and such other information as the department of revenue shall by rule require, to the department of revenue. The department of revenue shall fix a date for a hearing on said complaint at the earliest convenient time after receipt of said record, which hearing shall be held in the county in which said taxing district is located, and notice of such hearing shall be given to the officials of such taxing district, charged with determining the amount of its levies, and to the taxpayer on said complaint by registered mail at least five days prior to the date of said hearing. At such hearings all interested parties may be heard and the department of revenue shall receive all competent evidence. After such hearing, the department of revenue shall either affirm or decrease the levy or levies complained of, in accordance with the evidence, and shall thereupon certify its action with respect thereto to the county auditor, who, in turn, shall certify it to the taxing district or districts affected, and the action of the department of revenue with respect to such levy or levies shall be final and conclusive.

**Sec. 20.** RCW 84.12.270 and 1975 1st ex.s. c 278 s 165 are each amended to read as follows:

The department of revenue shall annually make an assessment of the operating property of all companies; and between the fifteenth day of March and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter and assess the true ~~((cash))~~ and fair value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the true ~~((cash))~~ and fair value of such property the department of revenue may inspect the property belonging to said companies and may take into consideration any information or knowledge obtained by it from such examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating or nonoperating property, and whether situated within or outside the state, and any other facts, evidence or information that may be obtainable bearing upon the value of the operating property: PROVIDED, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue

in determining the amount, character and true (~~cash~~) and fair value of the operating property of such company.

**Sec. 21.** RCW 84.12.310 and 1975 1st ex.s. c 278 s 167 are each amended to read as follows:

For the purpose of determining the system value of the operating property of any such company, the department of revenue shall deduct from the (~~actual cash~~) true and fair value of the total assets of such company, the actual cash value of all nonoperating property owned by such company. For such purpose the department of revenue may require of the assessors of the various counties within this state a detailed list of such company's properties assessed by them, together with the assessable or assessed value thereof: PROVIDED, That such assessed or assessable value shall be advisory only and not conclusive on the department of revenue as to the value thereof.

**Sec. 22.** RCW 84.12.330 and 1975 1st ex.s. c 278 s 168 are each amended to read as follows:

Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of subdivision (17) of RCW 84.12.200, as applied to said company, following which shall be entered the (~~actual-cash~~) true and fair value of the operating property as determined by the department of revenue. No assessment shall be invalidated by reason of a mistake in the name of the company assessed, or the omission of the name of the owner or by the entry as owner of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the (~~actual-cash~~) true and fair value of the operating property of the company, as herein required, it shall notify the company by mail of the valuation determined by it and entered upon said roll.

**Sec. 23.** RCW 84.12.350 and 1967 ex.s. c 26 s 17 are each amended to read as follows:

Upon determination by the department of revenue of the true and (~~correct actual-cash~~) fair value of the property appearing on such rolls it shall apportion such value to the respective counties entitled thereto, as hereinafter provided, and shall determine the equalized assessed valuation of such property in each such county and in the several taxing districts therein, by applying to such actual apportioned value the same ratio as the ratio of assessed to actual value of the general property in such county: PROVIDED, That, whenever the amount of the true and correct value of the operating property of any company otherwise apportionable to any county or other taxing district shall be less than two hundred fifty dollars, such amount need not be apportioned to such county or taxing district but may be added to the amount apportioned to an adjacent county or taxing district.

**Sec. 24.** RCW 84.12.360 and 1987 c 153 s 3 are each amended to read as follows:

The ~~((actual-cash))~~ true and fair value of the operating property assessed to a company, as fixed and determined by the ~~((state-board))~~ department of ~~((equalization))~~ revenue, shall be apportioned by the department of revenue to the respective counties and to the taxing districts thereof wherein such property is located in the following manner:

(1) Property of ~~((steam, suburban, and interurban))~~ all railroad companies other than street railroad companies, telegraph companies and pipe line companies—upon the basis of that proportion of the value of the total operating property within the state which the mileage of track, as classified by the department of revenue (in case of railroads), mileage of wire (in the case of telegraph companies),<sub>2</sub> and mileage of pipe line (in the case of pipe line companies) within each county or taxing district bears to the total mileage thereof within the state, at the end of the calendar year last past. For the purpose of such apportionment the department may classify railroad track.

(2) Property of street railroad companies, telephone companies, electric light and power companies, gas companies, water companies, heating companies and toll bridge companies—upon the basis of relative value of the operating property within each county and taxing district to the value of the total operating property within the state to be determined by such factors as the department of revenue shall deem proper.

(3) Planes or other aircraft of airplane companies and watercraft of steamboat companies—upon the basis of such factor or factors of allocation, to be determined by the department of revenue, as will secure a substantially fair and equitable division between counties and other taxing districts.

All other property of airplane companies and steamboat companies—upon the basis set forth in ~~((subdivision))~~ subsection (2) ((hereof)) of this section.

The basis of apportionment with reference to all public utility companies above prescribed shall not be deemed exclusive and the department of revenue in apportioning values of such companies may also take into consideration such other information, facts, circumstances, or allocation factors as will enable it to make a substantially just and correct valuation of the operating property of such companies within the state and within each county thereof.

**Sec. 25.** RCW 84.12.370 and 1975 1st ex.s. c 278 s 171 are each amended to read as follows:

When the ~~((state-board))~~ department of ~~((equalization))~~ revenue shall have determined the equalized assessed value of the operating property of each company in each of the respective counties and in the taxing districts thereof, as hereinabove provided, the department of revenue shall certify such equalized assessed value to the county assessor of the proper county. The county assessor shall enter the company's real operating property upon the real property tax rolls and the company's personal operating property upon the personal property tax rolls of ~~((his))~~ the county, together with the values so apportioned, and the same shall be and constitute the assessed valuation of the operating property of the company in such county and the taxing districts therein for that year, upon which

taxes shall be levied and collected in the same manner as on the general property of such county.

**Sec. 26.** RCW 84.16.040 and 1975 1st ex.s. c 278 s 179 are each amended to read as follows:

The department of revenue shall annually make an assessment of the operating property of each private car company; and between the first day of May and the first day of July of each of said years shall prepare an assessment roll upon which it shall enter and assess the true (~~cash~~) and fair value of all the operating property of each of such companies as of the first day of January of the year in which the assessment is made. For the purpose of determining the true (~~cash~~) and fair value of such property the department of revenue may take into consideration any information or knowledge obtained by it from an examination and inspection of such property, or of the books, records and accounts of such companies, the statements filed as required by this chapter, the reports, statements or returns of such companies filed in the office of any board, office or commission of this state or any county thereof, the earnings and earning power of such companies, the franchises owned or used by such companies, the assessed valuation of any and all property of such companies, whether operating property or nonoperating property, and whether situated within or without the state, and any other facts, evidences or information that may be obtainable bearing upon the value of the operating property: PROVIDED, That in no event shall any statement or report required from any company by this chapter be conclusive upon the department of revenue in determining the amount, character and true (~~cash~~) and fair value of the operating property of such company.

**Sec. 27.** RCW 84.16.050 and 1975 1st ex.s. c 278 s 180 are each amended to read as follows:

The department of revenue may, in determining the (~~actual-cash~~) true and fair value of the operating property to be placed on the assessment roll value the entire property as a unit. If the company owns, leases, operates or uses property partly within and partly without the state, the department of revenue may determine the value of the operating property within this state by the proportion that the value of such property bears to the value of the entire operating property of the company, both within and without this state. In determining the operating property which is located within this state the department of revenue may consider and base such determination on the proportion which the number of car miles of the various classes of cars made in this state bears to the total number of car miles made by the same cars within and without this state, or to the total number of car miles made by all cars of the various classes within and without this state. If the value of the operating property of the company cannot be fairly determined in such manner the department of revenue may use any other reasonable and fair method to determine the value of the operating property of the company within this state.

**Sec. 28.** RCW 84.16.090 and 1975 1st ex.s. c 278 s 181 are each amended to read as follows:

Upon the assessment roll shall be placed after the name of each company a general description of the operating property of the company, which shall be considered sufficient if described in the language of ~~((subdivision))~~ subsection (3) of RCW 84.16.010 or otherwise, following which shall be entered the ~~((actual cash))~~ true and fair value of the operating property as determined by the department of revenue. No assessment shall be invalid by a mistake in the name of the company assessed, by omission of the name of the owner or by the entry of a name other than that of the true owner. When the department of revenue shall have prepared the assessment roll and entered thereon the ~~((actual-cash))~~ true and fair value of the operating property of the company, as herein required, it shall notify the company by mail of the valuation determined by it and entered upon said roll; and thereupon such valuation shall become the ~~((actual-cash))~~ true and fair value of the operating property of the company, subject to revision or correction by the ~~((state-board))~~ department of ~~((equalization))~~ revenue as hereinafter provided; and shall be the valuation upon which, after equalization by the ~~((state-board))~~ department of ~~((equalization))~~ revenue as hereinafter provided, the taxes of such company shall be based and computed.

**Sec. 29.** RCW 84.16.110 and 1967 ex.s. c 26 s 18 are each amended to read as follows:

Upon determination by the department of revenue of the true and ~~((correct actual-cash))~~ fair value of the property appearing on such rolls the department shall apportion such value to the respective counties entitled thereto as hereinafter provided, and shall determine the equalized or assessed valuation of such property in such counties by applying to such actual apportioned value the same ratio as the ratio of assessed to actual value of the general property of the respective counties: PROVIDED, That, whenever the amount of the true and correct value of the operating property of any company otherwise apportionable to any county shall be less than two hundred fifty dollars, such amount need not be apportioned to such county but may be added to the amount apportioned to an adjacent county.

**Sec. 30.** RCW 84.16.120 and 1961 c 15 s 84.16.120 are each amended to read as follows:

The ~~((actual-cash))~~ true and fair value of the property of each company as fixed and determined by the ~~((state-board))~~ department of ~~((equalization))~~ revenue as herein provided shall be apportioned to the respective counties in the following manner:

(1) If all the operating property of the company is situated entirely within a county and none of such property is located within, extends into, or through or is operated into or through any other county, the entire value thereof shall be apportioned to the county within which such property is situate, located and operated.

(2) If the operating property of any company is situated or located within, extends into or is operated into or through more than one county, the value thereof shall be apportioned to the respective counties into or through which its cars are operated in the proportion that the length of main line track of the respective railroads moving such cars in such counties bears to the total length of main line track of such respective railroads in this state.

(3) If the property of any company is of such character that it will not be reasonable, feasible or fair to apportion the value as hereinabove provided, the value thereof shall be apportioned between the respective counties into or through which such property extends or is operated or in which the same is located in such manner as may be reasonable, feasible and fair.

**Sec. 31.** RCW 84.16.130 and 1975 1st ex.s. c 278 s 183 are each amended to read as follows:

When the ~~((state board))~~ department of ~~((equalization))~~ revenue shall have determined the equalized or assessed value of the operating property of each company in the respective counties as hereinabove provided, the department of revenue shall certify such equalized or assessed value to the county assessor of the proper county; and the county assessor shall apportion and distribute such assessed or equalized valuation to and between the several taxing districts of ~~((his))~~ the county entitled to a proportionate value thereof in the manner prescribed in RCW 84.16.120 for apportionment of values between counties. The county assessor shall enter such assessment upon the personal property tax rolls of ~~((his))~~ the county, together with the values so apportioned, and the same shall be and constitute the assessed valuation of the operating company in such county for that year, upon which taxes shall be levied and collected the same as on general property of the county.

**Sec. 32.** RCW 84.33.130 and 1986 c 100 s 57 are each amended to read as follows:

(1) An owner of land desiring that it be designated as forest land and valued pursuant to RCW 84.33.120 as of January 1 of any year ~~((commencing with 1972))~~ shall make application to the county assessor before such January 1.

(2) The application shall be made upon forms prepared by the department of revenue and supplied by the county assessor, and shall include the following:

(a) A legal description of or assessor's tax lot numbers for all land the applicant desires to be designated as forest land;

(b) The date or dates of acquisition of such land;

(c) A brief description of the timber on such land, or if the timber has been harvested, the owner's plan for restocking;

(d) Whether there is a forest management plan for such land;

(e) If so, the nature and extent of implementation of such plan;

(f) Whether such land is used for grazing;

(g) Whether such land has been subdivided or a plat filed with respect thereto;



(h) Whether such land and the applicant are in compliance with the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(i) Whether such land is subject to forest fire protection assessments pursuant to RCW 76.04.610;

(j) Whether such land is subject to a lease, option or other right which permits it to be used for any purpose other than growing and harvesting timber;

(k) A summary of the past experience and activity of the applicant in growing and harvesting timber;

(l) A summary of current and continuing activity of the applicant in growing and harvesting timber;

(m) A statement that the applicant is aware of the potential tax liability involved when such land ceases to be designated as forest land;

(n) An affirmation that the statements contained in the application are true and that the land described in the application is, by itself or with other forest land not included in the application, in contiguous ownership of twenty or more acres which is primarily devoted to and used for growing and harvesting timber. The assessor shall afford the applicant an opportunity to be heard if the application so requests.

(3) The assessor shall act upon the application with due regard to all relevant evidence and without any one or more items of evidence necessarily being determinative, except that the application may be denied for one of the following reasons, without regard to other items:

(a) The land does not contain either a "merchantable stand of timber" or an "adequate stocking" as defined (~~in RCW 76.08.010, or any laws or regulations adopted to replace such minimum standards~~) by rule adopted by the forest practices board, except this reason (a) shall not alone be sufficient for denial of the application (i) if such land has been recently harvested or supports a growth of brush or noncommercial type timber, and the application includes a plan for restocking within three years or such longer period necessitated by unavailability of seed or seedlings, or (ii) if only isolated areas within such land do not meet such minimum standards due to rock outcroppings, swamps, unproductive soil or other natural conditions;

(b) The applicant, with respect to such land, has failed to comply with a final administrative or judicial order with respect to a violation of the restocking, forest management, fire protection, insect and disease control and forest debris provisions of Title 76 RCW or any applicable regulations thereunder;

(c) The land abuts a body of salt water and lies between the line of ordinary high tide and a line paralleling such ordinary high tide line and two hundred feet horizontally landward therefrom, except that if the higher and better use determined by the assessor to exist for such land would not be permitted or economically feasible by virtue of any federal, state or local law or regulation such land shall be assessed and valued pursuant to the procedures set forth in

RCW 84.33.110 and 84.33.120 without being designated. The application shall be deemed to have been approved unless, prior to May 1, of the year after such application was mailed or delivered to the assessor, ~~((he))~~ the assessor shall notify the applicant in writing of the extent to which the application is denied.

(4) An owner who receives notice pursuant to subsection (3) of this section that his or her application has been denied may appeal such denial to the county board of equalization.

**Sec. 33.** RCW 84.34.230 and 1973 1st ex.s. c 195 s 94 are each amended to read as follows:

For the purpose of acquiring conservation futures as well as other rights and interests in real property pursuant to RCW 84.34.210 and 84.34.220, a county may levy an amount not to exceed six and one-quarter cents per thousand dollars of assessed valuation against the assessed valuation of all taxable property within the county, which levy shall be in addition to that authorized by RCW ~~((84.52.050 and))~~ 84.52.043.

**Sec. 34.** RCW 84.38.040 and 1984 c 220 s 22 are each amended to read as follows:

(1) Each claimant electing to defer payment of special assessments and/or real property tax obligations under this chapter shall file with the county assessor, on forms prescribed by the department and supplied by the assessor, a written declaration thereof. The declaration to defer special assessments and/or real property taxes for any year shall be filed no later than thirty days before the tax or assessment is due or thirty days after receiving notice under RCW ~~((84.64.030 or))~~ 84.64.050, whichever is later: PROVIDED, That for good cause shown, the department may waive this requirement.

(2) The declaration shall designate the property to which the deferral applies, and shall include a statement setting forth (a) a list of all members of the claimant's household, (b) the claimant's equity value in his residence, (c) facts establishing the eligibility for the deferral under the provisions of this chapter, and (d) any other relevant information required by the rules of the department. Each copy shall be signed by the claimant subject to the penalties as provided in chapter ~~((9-72))~~ 9A.72 RCW for ~~((the))~~ false swearing. The first declaration to defer filed in a county shall include proof of the claimant's age acceptable to the assessor.

(3) The county assessor shall determine if each claimant shall be granted a deferral for each year but the claimant shall have the right to appeal this determination to the county board of equalization whose decision shall be final as to the deferral of that year.

**Sec. 35.** RCW 84.40.0301 and 1971 ex.s. c 288 s 2 are each amended to read as follows:

~~((+))~~ Upon review by any court, or appellate body, of a determination of the valuation of property for purposes of taxation, it shall be presumed that the determination of the public official charged with the duty of establishing such

value is correct but this presumption shall not be a defense against any correction indicated by clear, cogent and convincing evidence.

~~((2) In any administrative or judicial proceeding pending upon May 21, 1971 or arising from the property revaluation under the provisions of section 4, chapter 282, Laws of 1969 ex. sess., and section 1, chapter 95, Laws of 1970 ex. sess., the provisions of this section will apply. This paragraph shall not be construed so as to limit in any way the provisions of subsection (1) of this section.))~~

**Sec. 36.** RCW 84.40.045 and 1977 ex.s. c 181 s 1 are each amended to read as follows:

The assessor shall give notice of any change in the true and fair value of real property for the tract or lot of land and any improvements thereon no later than thirty days after appraisal: PROVIDED, That no such notice shall be mailed during the period from January 15 to February 15 of each year: PROVIDED FURTHER, That no notice need be sent with respect to changes in valuation of forest land made pursuant to chapter 84.33 RCW.

The notice shall contain a statement of both the prior and the new true and fair value and the ratio of the assessed value to the true and fair value on which the assessment of the property is based, stating separately land and improvement values, and a brief statement of the procedure for appeal to the board of equalization and the time, date, and place of the meetings of the board.

The notice shall be mailed by the assessor to the taxpayer.

If any taxpayer, as shown by the tax rolls, holds solely a security interest in the real property which is the subject of the notice, pursuant to a mortgage, contract of sale, or deed of trust, such taxpayer shall, upon written request of the assessor, supply, within thirty days of receipt of such request, to the assessor the name and address of the person making payments pursuant to the mortgage, contract of sale, or deed of trust, and thereafter such person shall also receive a copy of the notice provided for in this section. Willful failure to comply with such request within the time limitation provided for herein shall make such taxpayer subject to a maximum civil penalty of five ~~((dollars for each parcel of real property within the scope of the request in which it holds the security interest, the aggregate of such penalties in any one year not to exceed five))~~ thousand dollars. The penalties provided for herein shall be recoverable in an action by the county prosecutor, and when recovered shall be deposited in the county current expense fund. The assessor shall make the request provided for by this section during the month of January.

**Sec. 37.** RCW 84.40.080 and 1973 2nd ex.s. c 8 s 1 are each amended to read as follows:

~~((The))~~ An assessor~~(, upon his own motion, or upon the application of any taxpayer,))~~ shall enter ~~((in the detail and assessment list of the current))~~ on the assessment roll in any year any property shown to have been omitted from the assessment ~~((list))~~ roll of any preceding year, at the ~~((valuation of that))~~ value

for the preceding year, or if not then valued, at such ~~((valuation))~~ value as the assessor shall determine ~~((from))~~ for the preceding year, and such ~~((valuation))~~ value shall be stated ~~((in a separate line))~~ separately from the ~~((valuation))~~ value of ~~((the current))~~ any other year. Where improvements have not been valued and assessed as a part of the real estate upon which the same may be located, as evidenced by the assessment rolls, they may be separately valued and assessed as omitted property under this section: PROVIDED, That no such assessment shall be made in any case where a bona fide purchaser, encumbrancer, or contract buyer has acquired any interest in said property prior to the time such improvements are assessed. When such an omitted assessment is made, the taxes levied thereon may be paid within one year of the due date of the taxes for the year in which the assessment is made without penalty or interest: AND PROVIDED FURTHER, That in the assessment of personal property, the assessor shall assess the omitted value not reported by the taxpayer as evidenced by an inspection of either the property or the books and records of said taxpayer by the assessor.

**Sec. 38.** RCW 84.40.090 and 1961 c 15 s 84.40.090 are each amended to read as follows:

It shall be the duty of assessors, when assessing real or personal property, to designate the name or number of each taxing ~~((and road))~~ district in which each person and each description of property assessed is liable for taxes ~~((, which designation shall be made by writing the name or number of the districts opposite each assessment in the column provided for that purpose in the detail and assessment list))~~. When the real and personal property of any person is assessable in several taxing districts ~~((and/or road districts))~~, the amount in each shall be assessed ~~((on separate detail and assessment lists, and all property assessable in incorporated cities or towns shall be assessed in consecutive books, where more than one book is necessary, separate from outside property and separately, and the name of the owner, if known, together with his post office address, placed opposite each amount))~~ separately.

**Sec. 39.** RCW 84.40.170 and 1961 c 15 s 84.40.170 are each amended to read as follows:

(1) In all cases of irregular subdivided tracts or lots of land other than any regular government subdivision the county assessor shall outline a plat of such tracts or lots and notify the owner or owners thereof with a request to have the same surveyed by the county engineer, and cause the same to be platted into numbered (or lettered) lots or tracts: PROVIDED, HOWEVER, That where any county has in its possession the correct field notes of any such tract or lot of land a new survey shall not be necessary, but such tracts may be mapped from such field notes. In case the owner of such tracts or lots neglects or refuses to have the same surveyed or platted, the county assessor shall notify the ~~((board of))~~ county ~~((commissioners))~~ legislative authority in and for the county, who may order and direct the county engineer to make the proper survey and plat of the

tracts and lots. A plat shall be made on which said tracts or lots of land shall be accurately described by lines, and numbered (or lettered), which numbers (or letters) together with number of the section, township and range shall be distinctly marked on such plat, and the field notes of all such tracts or lots of land shall describe each tract or lot according to the survey, and such tract or lot shall be numbered (or lettered) to correspond with its number (or letter) on the map. The plat shall be given a designated name by the surveyor thereof. When the survey, plat, field notes and name of plat, shall have been approved by the ~~((board of))~~ county ~~((commissioners))~~ legislative authority, the plat and field notes shall be filed and recorded in the office of the county auditor, and the description of any tract or lot of land described in said plats by number (or letter), section, township and range, shall be a sufficient and legal description for revenue and all other purposes.

(2) Upon the request of eighty percent of the owners of the property to be surveyed and the approval of the county legislative authority, the county assessor may charge for actual costs and file a lien against the subject property if the costs are not repaid within ninety days of notice of completion, which may be collected as if such charges had been levied as a property tax.

**Sec. 40.** RCW 84.41.070 and 1975 1st ex.s. c 278 s 198 are each amended to read as follows:

If the department of revenue finds upon its own investigation, or upon a showing by others, that the revaluation program for any county is not proceeding for any reason as herein directed, ~~((or is not proceeding for any reason with sufficient rapidity to be completed before June 1, 1958,))~~ the department of revenue shall advise both the ~~((board of))~~ county ~~((commissioners))~~ legislative authority and the county assessor of such finding. Within thirty days after receiving such advice, the ~~((board of))~~ county ~~((commissioners))~~ legislative authority, at regular or special session, either (1) shall authorize such expenditures as will enable the assessor to complete the revaluation program as herein directed, or (2) shall direct the assessor to request special assistance from the department of revenue for aid in effectuating the county's revaluation program.

**Sec. 41.** RCW 84.44.010 and 1961 c 15 s 84.44.010 are each amended to read as follows:

Personal property, except such as is required in this title to be listed and assessed otherwise, shall be listed and assessed in the county where it is situated. ~~((The personal property pertaining to the business of a merchant or of a manufacturer shall be listed in the town or place where his business is carried on.))~~

**Sec. 42.** RCW 84.48.050 and 1961 c 15 s 84.48.050 are each amended to read as follows:

The county assessor shall, on or before the fifteenth day of January in each year, make out and transmit to the state auditor, in such form as may be prescribed, a complete abstract of the tax rolls of the county, showing the

number of acres ~~((of land))~~ that have been assessed~~((, the))~~ and the total value of ~~((such land))~~ the real property, including the structures ~~((thereon; the value of town and city lots, including structures))~~ on the real property; the total value of all taxable personal property in the county; the aggregate amount of all taxable property in the county; the total amount as equalized and the total amount of taxes levied in the county for state, county, city and other taxing district purposes, for that year. Should the assessor of any county fail to transmit to the ~~((state board))~~ department of ~~((equalization))~~ revenue the abstract provided for in RCW 84.48.010 by the ~~((time the state board of equalization convenes))~~ eighteenth of August, and if, by reason of such failure to transmit such abstract, any county shall fail to collect and pay to the state its due proportion of the state tax for any year, the ~~((state board))~~ department of ~~((equalization))~~ revenue shall, at its next annual session, ascertain what amount of state tax said county has failed to collect, and certify the same to the state auditor, who shall charge the amount to the proper county and notify the auditor of said county of the amount of said charge; said sum shall be due and payable immediately by warrant in favor of the state on the current expense fund of said county.

**Sec. 43.** RCW 84.48.080 and 1990 c 283 s 1 are each amended to read as follows:

Annually during the months of September and October, the department of revenue shall examine and compare the returns of the assessment of the property in the several counties of the state, and the assessment of the property of railroad and other companies assessed by the department, and proceed to equalize the same, so that each county in the state shall pay its due and just proportion of the taxes for state purposes for such assessment year, according to the ratio the valuation of the property in each county bears to the total valuation of all property in the state.

First. The department shall classify all property, real and personal, and shall raise and lower the valuation of any class of property in any county to a value that shall be equal, so far as possible, to the true and fair value of such class as of January 1st of the current year for the purpose of ascertaining the just amount of tax due from each county for state purposes. In equalizing personal property as of January 1st of the current year, the department shall use the assessment level of the preceding year. Such classification may be on the basis of types of property, geographical areas, or both. For purposes of this section, for each county that has not provided the department with an assessment return by December 1st, the department shall proceed, using facts and information and in a manner it deems appropriate, to estimate the value of each class of property in the county.

Second. The department shall keep a full record of its proceedings and the same shall be published annually by the department.

The department shall levy the state taxes authorized by law: PROVIDED, That the amount levied in any one year for general state purposes shall not exceed the lawful dollar rate on the dollar of the assessed value of the property

of the entire state, which assessed value shall be one hundred percent of the true and fair value of such property in money. The department shall apportion the amount of tax for state purposes levied by the department, among the several counties, in proportion to the valuation of the taxable property of the county for the year as equalized by the department: PROVIDED, That for purposes of this apportionment, the department shall recompute the previous year's levy and the apportionment thereof to correct for changes and errors in taxable values reported to the department after October 1 of the preceding year and shall adjust the apportioned amount of the current year's state levy for each county by the difference between the apportioned amounts established by the original and revised levy computations for the previous year. For purposes of this section, changes in taxable values mean a final adjustment made by a county board of equalization, the state board of tax appeals, or a court of competent jurisdiction and shall include additions of omitted property, other additions or deletions from the assessment or tax rolls, any assessment return provided by a county to the department subsequent to December 1st, or a change in the indicated ratio of a county. Errors in taxable values mean errors corrected by a final reviewing body.

The department shall have authority to adopt rules and regulations to enforce obedience to its orders in all matters in relation to the returns of county assessments, the equalization of values, and the apportionment of the state levy by the department.

After the completion of the duties hereinabove prescribed, the director of the department shall certify the record of the proceedings of the department under this section, the tax levies made for state purposes and the apportionment thereof among the counties, and the certification shall be available for public inspection.

**Sec. 44.** RCW 84.48.110 and 1987 c 168 s 1 are each amended to read as follows:

Within three days after the record of the proceedings of the ~~((state board))~~ department of ~~((equalization))~~ revenue is certified by the director of the department, the department shall transmit to each county assessor a copy of the record of the proceedings of the ~~((board))~~ department, specifying the amount to be levied and collected ~~((on said assessment books))~~ for state purposes for such year, and in addition thereto it shall certify to each county assessor the amount due to each state fund and unpaid from such county for the fifth preceding year, and such delinquent state taxes shall be added to the amount levied for the current year. The department shall close the account of each county for the fifth preceding year and charge the amount of such delinquency to the tax levy of the current year. These delinquent taxes shall not be subject to chapter 84.55 RCW. All taxes collected on and after the first day of July last preceding such certificate, on account of delinquent state taxes for the fifth preceding year shall belong to the county and by the county treasurer be credited to the current expense fund of the county in which collected.

**Sec. 45.** RCW 84.48.120 and 1987 c 168 s 2 are each amended to read as follows:

It shall be the duty of the county assessor of each county, when he shall have received from the state department of revenue the assessed valuation of the property of railroad and other companies assessed by the department of revenue and apportioned to the county, and placed the same on the tax rolls, and received the report of the department of revenue of the amount of taxes levied for state purposes, to compute the required percent on the assessed value of property in the county, and such state taxes shall be extended on the tax rolls in the proper column: PROVIDED, That the rates so computed shall not be such as to raise a surplus of more than five percent over the total amount required by the ~~((state board))~~ department of ~~((equalization))~~ revenue: PROVIDED FURTHER, That any surplus raised shall be remitted to the state in accordance with RCW 84.56.280.

**Sec. 46.** RCW 84.48.150 and 1973 1st ex.s. c 30 s 1 are each amended to read as follows:

The assessor shall, upon the request of any taxpayer who petitions the board of equalization for review of a tax claim or valuation dispute, make available to said taxpayer a compilation of comparable sales utilized by the assessor in establishing such taxpayer's property valuation. If valuation criteria other than comparable sales were used, the assessor shall furnish the taxpayer with such other factors and the addresses of such other property used in making the determination of value.

The assessor shall within ~~((thirty))~~ sixty days of such request but at least ~~((ten))~~ fourteen business days, excluding legal holidays, prior to such taxpayer's appearance before the board of equalization make available to the taxpayer the valuation criteria and/or comparable~~((s))~~ sales which shall not be subsequently changed ~~((or modified))~~ by the assessor ~~((during review or appeal proceedings))~~ unless the assessor has found new evidence supporting the assessor's valuation, in which situation the assessor shall provide such additional evidence to the taxpayer and the board of equalization at least ~~((ten))~~ fourteen business days prior to the hearing ~~((on appeal or review proceedings))~~ at the board of equalization. A taxpayer who lists comparable sales on ~~((his))~~ a notice of appeal ~~((shall not thereafter use other comparables during the review of appeal proceedings: PROVIDED, That the taxpayer may change the comparable sales he is using in proceedings subsequent to the county board of equalization only if he provides a listing of such different comparables to the assessor at least five business days prior to such subsequent proceedings: PROVIDED FURTHER, That the board of equalization may waive the requirements contained in the preceding proviso or allow the assessor a continuance of reasonable duration to check the comparables furnished by the taxpayer))~~ shall not subsequently change such sales unless the taxpayer has found new evidence supporting the taxpayer's proposed valuation in which case the taxpayer shall provide such additional evidence to the assessor and board of equalization at least seven business days,



excluding legal holidays, prior to the hearing. If either the assessor or taxpayer does not meet the requirements of this section the board of equalization may continue the hearing to provide the parties an opportunity to review all evidence or, upon objection, refuse to consider sales not submitted in a timely manner.

**NEW SECTION. Sec. 47.** A new section is added to chapter 84.48 RCW to read as follows:

The board of equalization may enter an order that has effect up to the end of the assessment cycle used by the assessor, if there has been no intervening change in the value during that time.

**NEW SECTION. Sec. 48.** A new section is added to chapter 84.56 RCW to read as follows:

Each tax statement shall show the amount of taxes directly approved by the voters at a general election, including but not limited to those under Article VII, section 2 of the state Constitution or chapter 84.55 RCW. The amount of taxes directly approved by the voters at a general election may be shown either as a dollar amount or as a percentage of the total amount of taxes.

**Sec. 49.** RCW 84.55.005 and 1983 1st ex.s. c 62 s 11 are each amended to read as follows:

As used in this chapter, the term "regular property taxes" has the meaning given it in RCW 84.04.140, and also includes amounts received in lieu of regular property taxes (~~(under RCW 84.09.080)~~).

**Sec. 50.** RCW 84.56.010 and 1975-'76 2nd ex.s. c 10 s 1 are each amended to read as follows:

On or before the first Monday in January next succeeding the date of levy of taxes the (~~county auditor shall issue to the~~) county treasurer (~~(his warrant authorizing the collection of taxes listed on the)~~) shall establish tax rolls of his or her county as certified by the county assessor for such assessment year, and said rolls shall be preserved as a public record in the office of the county treasurer. The amount of said taxes levied and extended upon said rolls shall be charged to the treasurer in an account to be designated as treasurer's "Tax roll account" for . . . . and said rolls (~~(with the warrants for collection)~~) shall be full and sufficient authority for the county treasurer to receive and collect all taxes therein levied: PROVIDED, That the county treasurer shall in no case collect such taxes or issue receipts for the same or enter payment or satisfaction of such taxes upon said assessment rolls before the fifteenth day of February following.

**Sec. 51.** RCW 84.56.160 and 1961 c 15 s 84.56.160 are each amended to read as follows:

The treasurer of any county of this state shall have the power to certify a statement of taxes and delinquencies of any person, firm, company or corporation, or of any tax on personal property together with all penalties and delinquencies, which statement shall be under seal and contain a transcript of the

~~((warrant of))~~ tax collection records and so much of the tax roll as shall affect the person, firm, company or corporation or personal property to the treasurer of any county of this state, wherein any such person, firm, company or corporation has any real or personal property.

**Sec. 52.** RCW 84.56.170 and 1961 c 15 s 84.56.170 are each amended to read as follows:

The treasurer of any county of this state receiving the certified statement provided for in RCW 84.56.150 and 84.56.160, shall have the same power to collect the taxes, penalties and delinquencies so certified as ~~((he))~~ the treasurer has to collect the personal taxes levied on personal property in his or her own county, and as soon as the said taxes are collected they shall be remitted, less the cost of collecting same, to the treasurer of the county to which said taxes belong, by the treasurer collecting them ~~((, and he shall return a certified copy of the certified statement to the auditor of the county to which the taxes belong, together with a certified statement of the amount remitted to the said treasurer))~~.

**Sec. 53.** RCW 84.56.340 and 1985 c 395 s 4 are each amended to read as follows:

Any person desiring to pay taxes upon any part or parts of real property heretofore or hereafter assessed as one parcel, or tract, may do so by applying to the county assessor, who must carefully investigate and ascertain the relative or proportionate value said part bears to the whole tract assessed, on which basis the assessment must be divided, and the assessor shall forthwith certify such proportionate value to the county treasurer: PROVIDED, That excepting when property is being acquired for public use, or where a person or financial institution desires to pay the taxes and any penalties and interest on a mobile home upon which they have a lien by mortgage or otherwise, no segregation of property for tax purposes shall be made unless all delinquent taxes and assessments on the entire tract have been paid in full ~~((: AND PROVIDED FURTHER, That where the assessed valuation of the tract to be divided exceeds two thousand dollars a notice by registered mail must be given by the assessor to the several owners interested in said tract, if known, and if no protest against said division be filed with the county assessor within twenty days from date of notice.))~~. The county assessor shall duly certify the proportionate value to the county treasurer. The county treasurer, upon receipt of certification, shall duly accept payment and issue receipt on the apportionment certified by the county assessor. In cases where protest is filed to said division appeal shall be made to the county ((commissioners at their)) legislative authority at its next regular session for final division, and the county treasurer shall accept and receipt for said taxes as determined and ordered by the county ((commissioners)) legislative authority. Any person desiring to pay on an undivided interest in any real property may do so by paying to the county treasurer a sum equal to such proportion of the entire taxes charged on the entire tract as interest paid on bears to the whole.

**Sec. 54.** RCW 84.60.050 and 1971 ex.s. c 260 s 2 are each amended to read as follows:

(1) When real property is acquired by purchase or condemnation by the state of Washington, any county or municipal corporation or is placed under a recorded agreement for immediate possession and use or an order of immediate possession and use pursuant to RCW 8.04.090, such property shall continue to be subject to the tax lien for the years prior to the year in which the property is so acquired or placed under such agreement or order, of any tax levied by the state, county, municipal corporation or other tax levying public body, except as is otherwise provided in RCW 84.60.070.

(2) The lien for taxes applicable to the real property being acquired or placed under immediate possession and use for the year in which such real property is so acquired or placed under immediate possession and use shall be for only the pro rata portion of taxes allocable to that portion of the year prior to the date of execution of the instrument vesting title, date of recording such agreement of immediate possession and use, date of such order of immediate possession and use, or date of judgment. No taxes levied or tax lien on such property allocable to a period subsequent to the dates identified in this subsection shall be valid and any such taxes levied shall be canceled as provided in RCW ~~((84.56.400))~~ 84.48.065. In the event the owner has paid taxes allocable to that portion of the year subsequent to the dates identified in this subsection he or she shall be entitled to a pro rata refund of the amount paid on the property so acquired or placed under a recorded agreement or an order of immediate possession and use. If the dates identified in this subsection precede February 15th of the year in which such taxes become payable, no lien for such taxes shall be valid and any such taxes levied but not payable shall be canceled as provided in RCW ~~((84.56.400))~~ 84.48.065.

**Sec. 55.** RCW 84.69.020 and 1991 c 245 s 31 are each amended to read as follows:

On the order of the county treasurer, ad valorem taxes paid before or after delinquency shall be refunded if they were:

- (1) Paid more than once; or
- (2) Paid as a result of manifest error in description; or
- (3) Paid as a result of a clerical error in extending the tax rolls; or
- (4) Paid as a result of other clerical errors in listing property; or
- (5) Paid with respect to improvements which did not exist on assessment date; or
- (6) Paid under levies or statutes adjudicated to be illegal or unconstitutional; or
- (7) Paid as a result of mistake, inadvertence, or lack of knowledge by any person exempted from paying real property taxes or a portion thereof pursuant to RCW 84.36.381 through 84.36.389, as now or hereafter amended; or
- (8) Paid ~~((or overpaid))~~ as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person ~~((paying the~~

~~same or paid as a result of mistake, inadvertence, or lack of knowledge by either a public official or employee or by any person paying the same))~~ with respect to real property in which the person paying the same has no legal interest; or

(9) Paid on the basis of an assessed valuation which was appealed to the county board of equalization and ordered reduced by the board; or

(10) Paid on the basis of an assessed valuation which was appealed to the state board of tax appeals and ordered reduced by the board: PROVIDED, That the amount refunded under subsections (9) and (10) of this section shall only be for the difference between the tax paid on the basis of the appealed valuation and the tax payable on the valuation adjusted in accordance with the board's order; or

(11) Paid as a state property tax levied upon property, the assessed value of which has been established by the state board of tax appeals for the year of such levy: PROVIDED, HOWEVER, That the amount refunded shall only be for the difference between the state property tax paid and the amount of state property tax which would, when added to all other property taxes within the one percent limitation of Article VII, section 2 (~~((Amendment 59))~~) of the state Constitution equal one percent of the assessed value established by the board;

(12) Paid on the basis of an assessed valuation which was adjudicated to be unlawful or excessive: PROVIDED, That the amount refunded shall be for the difference between the amount of tax which was paid on the basis of the valuation adjudged unlawful or excessive and the amount of tax payable on the basis of the assessed valuation determined as a result of the proceeding; or

(13) Paid on property acquired under RCW 84.60.050, and canceled under RCW 84.60.050(2).

No refunds under the provisions of this section shall be made because of any error in determining the valuation of property, except as authorized in subsections (9), (10), (11), and (12) of this section nor may any refunds be made if a bona fide purchaser has acquired rights that would preclude the assessment and collection of the refunded tax from the property that should properly have been charged with the tax. Any refunds made on delinquent taxes shall include the proportionate amount of interest and penalties paid. The county treasurer may deduct from moneys collected for the benefit of the state's levy, refunds of the state levy including interest on the levy as provided by this section and chapter 84.68 RCW.

The county treasurer of each county shall make all refunds determined to be authorized by this section, and by the first Monday in January of each year, report to the county legislative authority a list of all refunds made under this section during the previous year. The list is to include the name of the person receiving the refund, the amount of the refund, and the reason for the refund.

**Sec. 56.** RCW 84.70.010 and 1987 c 319 s 6 are each amended to read as follows:

(1) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in

part, or is in an area that has been declared a disaster area by the governor and has been reduced in value by more than twenty percent as a result of a natural disaster, the true ~~((eash))~~ and fair value of such property shall be reduced for that year by an amount determined as follows:

(a) First take the true ~~((eash))~~ and fair value of such taxable property before destruction or reduction in value and deduct therefrom the true ~~((eash))~~ and fair value of the remaining property after destruction or reduction in value.

(b) Then divide any amount remaining by the number of days in the year and multiply the quotient by the number of days remaining in the calendar year after the date of the destruction or reduction in value of the property.

(2) No reduction in the true ~~((eash))~~ and fair value shall be made more than three years after the date of destruction or reduction in value.

(3) The assessor shall make such reduction on his or her own motion; however, the taxpayer may make application for reduction on forms prepared by the department and provided by the assessor. The assessor shall notify the taxpayer of the amount of reduction.

(4) If destroyed property is replaced prior to the valuation dates contained in RCW 36.21.080 and 36.21.090, the total taxable value for that year shall not exceed the value as of the appropriate valuation date in RCW 36.21.080 or 36.21.090, whichever is appropriate.

(5) The taxpayer may appeal the amount of reduction to the county board of equalization within thirty days of notification or July ~~((15th))~~ 1st of the year of reduction, whichever is later. The board shall reconvene, if necessary, to hear the appeal.

NEW SECTION. Sec. 57. The following acts or parts of acts are each repealed:

- (1) RCW 35.49.120 and 1965 c 7 s 35.49.120;
- (2) RCW 36.21.020 and 1963 c 4 s 36.21.020;
- (3) RCW 36.21.030 and 1963 c 4 s 36.21.030;
- (4) RCW 84.56.023 and 1989 c 378 s 38;
- (5) RCW 36.18.140 and 1963 c 4 s 36.18.140; and
- (6) RCW 84.56.180 and 1973 1st ex.s. c 195 s 110, 1969 ex.s. c 124 s 5, & 1961 c 15 s 84.56.180.

Passed the Senate March 8, 1994.

Passed the House March 4, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 302

[Engrossed Second Substitute Senate Bill 5468]

## BUSINESSES—TAX INCENTIVES AND ECONOMIC DEVELOPMENT INFORMATION

AN ACT Relating to private business entities receiving public assistance; adding a new chapter to Title 43 RCW; and declaring an emergency.

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

**NEW SECTION. Sec. 1.** The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state.

**\*NEW SECTION. Sec. 2. (1)** *The department of revenue and the department of community, trade, and economic development shall gather such base-line data as is necessary to measure the effect on businesses of any of the following benefits: (a) A loan of one hundred thousand dollars or more from the development loan fund; (b) fifty thousand dollars or more in tax credits under chapter 82.62 RCW; or (c) a deferral of one hundred thousand dollars or more in taxes under chapter 82.60 or 82.61 RCW. The departments shall measure the effect of the programs on job creation, company growth, the introduction of new products, the diversification of the state's economy, growth in investments, the movement of firms or the consolidation of firms' operation into the state, and such other factors as the departments select.*

*(2) The departments shall also measure whether the businesses receiving the benefits: (a) Have complied with federal and state requirements for affirmative action in hiring and promotion of their employees; (b) have provided an average wage that is above the average wage paid by firms located in the same county that share the same two-digit standard industrial code; (c) have provided basic health coverage at a level at least equivalent to basic health coverage under chapter 70.47 RCW; (d) have complied with all applicable federal and state environmental and employment laws and regulations; and (e) have complied with the requirements of all federal and state plant closure laws if reducing operations at a facility or relocating a facility.*

*(3) Businesses applying for one of the benefits specified in subsection (1) of this section shall submit employment impact estimates to the departments specifying the number and types of jobs, with wage rates and benefits for those jobs, that the business submitting the application expects to be eliminated, created, or retained on the project site and on other employment sites of the*

*business in Washington as a result of the project that is the subject of the application.*

*(4) The departments shall specify that upon a certain date or dates, the businesses that receive one of the benefits specified in subsection (1) of this section shall submit to the department an employment impact statement stating the net number and types of jobs eliminated, created, or retained, with the wage rates and benefits for those jobs, by the business in Washington as a result of the benefit received.*

*(5) The information collected on individual businesses under this section is not subject to public disclosure.*

*(6) The departments shall report their findings to the executive-legislative committee on economic development policy, or the appropriate legislative committees, if the executive-legislative committee on economic development policy is not created by statute, by September 1, 1995. The report shall provide aggregate information on businesses that share the same two-digit standard industrial code.*

*(6) The executive-legislative committee on economic development policy shall evaluate the departments' report and make recommendations to the governor and the legislature on the continuation of the benefit programs and any conditions under which they should operate if they are to continue.*

\*Sec. 2 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 3. Sections 1 and 2 of this act shall constitute a new chapter in Title 43 RCW.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 10, 1994.

Passed the House March 10, 1994.

Approved by the Governor April 2, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1994.

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

"I am returning herewith, without my approval as to section 2, Engrossed Second Substitute Senate Bill No. 5468 entitled:

"AN ACT Relating to private business entities receiving public assistance;"

This legislation would direct the Department of Revenue and the Department of Community, Trade and Economic Development to prepare a study of firms that have participated in state sales tax deferral, business and occupation tax credit, and development loan fund programs. The departments would be required to collect information to measure the effect of these tax provisions and loans on businesses. The departments would also be directed to measure whether the firms participating in the programs have followed a wide range of federal and state requirements under other statutes and have met other standards of conduct not required under current law. Firms applying for participation in these programs would be required to prepare employment impact estimates for the departments.

I understand and agree with the premise that the state has an interest in determining whether its economic development programs are achieving their intended effect. I also agree that the goal of state economic development activities is to encourage a sustainable high wage, high skill economy in the state for all of the state's citizens.

I continue to believe that the state should maintain high environmental, health and safety, and employment standards implemented in a way that minimize bureaucracy, duplication, and confusion for the state's businesses. High standards should be enacted in the laws that govern these subjects. However, if compliance with existing standards in these areas is to be examined by the study, the Department of Revenue and the Department of Community, Trade and Economic Development are not the proper agencies to conduct the study.

I am also concerned that the private business information to be collected from businesses under this legislation would be subject to public disclosure. Because we believe that public business should take place in the open, our state has one of the strongest public disclosure statutes in the nation. The only way for publicly collected information to remain confidential is to amend our public disclosure statutes to specifically exempt such information from disclosure requirements. Despite the effort in the legislation to ensure that information collected from individual firms will remain confidential, I believe that information collected would be subject to disclosure.

As a result of these two concerns, I am vetoing section 2 of Engrossed Second Substitute Senate Bill No. 5468. However, I also believe that it is in the state's long-term interest to promote a sustainable high wage, high skill economy and to maintain high environmental, health and safety, and employment standards. As a result, I am asking the directors of state agencies with responsibility for environmental protection, employment, economic development, and workplace health and safety to identify threshold criteria that the state should consider applying in the future as eligibility criteria for state assistance programs. If businesses are willful repeat violators of existing statutes in these areas, these businesses should be removed from the benefits of the state's economic development programs. I am also directing these agencies to involve interested parties in the process of identifying such criteria. I will examine the results of these actions and consider requesting changes in state law and regulations to implement them.

With the exception of section 2, Engrossed Second Substitute Senate Bill No. 5468 is approved."

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## CHAPTER 303

[Engrossed Substitute Senate Bill 6084]

### TRANSPORTATION BUDGET

AN ACT Relating to transportation appropriations; amending 1993 sp.s. c 23 ss 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 21, 22, 23, 25, 26, 27, 28, 29, 31, 32, 34, 35, 36, 37, 39, and 47 (uncodified); adding new sections to 1993 sp.s. c 23; creating a new section; repealing 1993 sp.s. c 23 s 40 (uncodified); repealing 1993 sp.s. c 23 s 41 (uncodified); and declaring an emergency.

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

**Sec. 1.** 1993 sp.s. c 23 s 1 (uncodified) is amended to read as follows:

The supplemental transportation budget of the state is hereby adopted and, subject to the provisions hereinafter set forth, the several amounts hereinafter specified, or as much thereof as may be necessary to accomplish the purposes designated, are hereby appropriated from the several accounts and funds hereinafter named to the designated state agencies and offices for salaries, wages, and other expenses, for capital projects, and for other specified purposes, including the payment of any final judgments arising out of such activities, for the period ending June 30, 1995.



\*Sec. 2. 1993 sp.s. c 23 s 2 (uncodified) is amended to read as follows:

**FOR THE TRAFFIC SAFETY COMMISSION**

Highway Safety Fund—State Appropriation . . . . .	\$	212,000
Highway Safety Fund—Federal Appropriation . . . . .	\$	2,545,000
<i>Transportation Fund—State Appropriation . . . . .</i>	<i>\$</i>	<i>((600,000))</i>
		<u>288,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((3,357,000))</b>
		<u>3,045,000</u>

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

(1) The appropriation from the ~~((public safety and education account))~~ transportation fund shall be used solely to fund community DWI task forces. Funding from the ~~((public safety and education account))~~ transportation fund for any community DWI task force may not exceed fifty percent of total expenditures in support of that task force.

(2) It is the intent of the legislature that the responsibilities of and appropriation to the Washington traffic safety commission be transferred to the Washington state patrol as of July 1, 1994. The appropriations in this section represent funding necessary to operate the agency for fiscal year 1994 only.

\*Sec. 2 was partially vetoed, see message at end of chapter.

Sec. 3. 1993 sp.s. c 23 s 4 (uncodified) is amended to read as follows:

**FOR THE COUNTY ROAD ADMINISTRATION BOARD**

Motor Vehicle Fund—County Arterial Preservation		
Account—State Appropriation . . . . .	\$	((24,247,000))
		<u>24,242,000</u>
Motor Vehicle Fund—Rural Arterial Trust		
Account—State Appropriation . . . . .	\$	((61,838,000))
		<u>61,828,000</u>
Motor Vehicle Fund—Private Local Appropriation . . .	\$	508,000
Motor Vehicle Fund—State Appropriation . . . . .	\$	((1,331,000))
		<u>1,324,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((87,924,000))</b>
		<u>87,902,000</u>

Sec. 4. 1993 sp.s. c 23 s 5 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION IMPROVEMENT BOARD**

Motor Vehicle Fund—Transportation Improvement		
Account—State Appropriation . . . . .	\$	((184,000,000))
		<u>179,000,000</u>
Motor Vehicle Fund—Urban Arterial Trust		
Account—State Appropriation . . . . .	\$	((26,322,000))
		<u>31,312,000</u>
Motor Vehicle Fund—City Hardship Assistance		
Account—State Appropriation . . . . .	\$	1,500,000

TOTAL APPROPRIATION . . . . . \$ ((211,822,000))  
211,812,000

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

(1) The transportation improvement board shall present to the legislative transportation committee by December 15, 1993, proposed legislation and an action plan to address the recommendations identified in the 1992 evaluation of the transportation improvement board by the subcommittee on transportation boards and commissions of the legislative transportation committee.

(2) The transportation improvement board shall on a quarterly basis present to the legislative transportation committee and the office of financial management an analysis of project cost changes as they apply to overall project costs, for projects funded from the transportation improvement account and the urban arterial trust account. The initial report, due October 31, 1993, shall compare cost estimates at the time of project approval to present estimate or final cost for all urban arterial trust account projects selected from 1989 forward and for all transportation improvement account projects. The board shall provide an update to the report each quarter thereafter citing the amount and reason for additional changes in actual or estimated costs for any project.

(3) \$50,000,000 of the transportation improvement account—state appropriation in this section is conditioned on the enactment of ((Senate Bill No. 5969)) RCW 47.26.500 through 47.26.507, authorizing bond sales for projects funded from the transportation improvement account.

(4) The motor vehicle fund—urban arterial trust account—state appropriation includes a loan of up to \$5,000,000 from the motor vehicle fund—transportation improvement account, which shall be repaid by July 1, 1996.

**\*Sec. 5.** 1993 sp.s. c 23 s 6 (uncodified) is amended to read as follows:  
**FOR THE STATE PATROL—FIELD OPERATIONS BUREAU**

*Motor Vehicle Fund—State Patrol Highway Account—*

*State Appropriation . . . . . \$ ((143,616,000))*  
*141,603,000*

*Motor Vehicle Fund—State Patrol Highway Account—*

*Federal Appropriation . . . . . \$ 3,218,000*  
*Motor Vehicle Fund—State Appropriation . . . . . \$ 788,000*  
*TOTAL APPROPRIATION . . . . . \$ ((147,622,000))*  
*145,609,000*

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

(1) Any user of Washington state patrol aircraft shall reimburse the Washington state patrol for its pro rata share of all operating and maintenance costs including capitalization.

(2) Any funds expended for the acquisition of new alcohol breath test equipment shall not exceed actual revenues collected under RCW 46.61.515(5).

(3) If the federal government reimburses the state patrol for its Asian-Pacific Economic Cooperation (APEC) Conference security costs, an amount equal to the general fund—state appropriation for this purpose shall be deposited in the general fund and the remainder deposited in the state patrol highway account.

(4) Only commissioned officers and commercial vehicle enforcement officers involved directly and primarily in traffic enforcement activities will be assigned vehicles by the Washington state patrol.

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

\*Sec. 6. 1993 sp.s. c 23 s 7 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL—INVESTIGATIVE SERVICES BUREAU**

Transportation Fund—State Appropriation . . . . .	\$	((1,371,000))
		1,494,000
<i>Motor Vehicle Fund—State Patrol Highway</i>		
<i>Account—State Appropriation . . . . .</i>	<i>\$</i>	<i>((4,444,000))</i>
		<u>3,695,000</u>
TOTAL APPROPRIATION . . . . .	\$	((5,815,000))
		5,189,000

The appropriations in this section are subject to the following conditions and limitations: \$356,000 of the motor vehicle fund—state patrol highway account—state appropriation and transportation fund—state appropriation contained in this section is for a central computerized enforcement service system, commonly called "ACCESS". The expenditures shall not exceed the actual revenues collected from the users of the system.

\*Sec. 6 was partially vetoed, see message at end of chapter.

\*Sec. 7. 1993 sp.s. c 23 s 8 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL—SUPPORT SERVICES BUREAU**

Motor Vehicle Fund—State Patrol Highway Account—

State Appropriation . . . . .	\$	((57,474,000))
		55,923,000
<i>Transportation Fund—State Appropriation . . . . .</i>	<i>\$</i>	<i>((3,391,000))</i>
		<u>3,691,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$	1,099,000
<u>Highway Safety Fund—State Appropriation . . . . .</u>	<u>\$</u>	<u>216,000</u>
<u>Highway Safety Fund—Federal Appropriation . . . . .</u>	<u>\$</u>	<u>2,596,000</u>
TOTAL APPROPRIATION . . . . .	\$	((61,964,000))
		63,525,000

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

(1) Of the total appropriation provided for in this section \$216,000 of the highway safety fund—state appropriation, \$2,596,000 of the highway safety fund—federal appropriation, and \$300,000 of the transportation fund—state appropriation is provided solely for carrying out the responsibilities transferred from the Washington traffic safety commission to the Washington state patrol

as provided for in Senate Bill No. 6523 (traffic safety commission). If the bill is not enacted by June 30, 1994, the amounts contained in this subsection shall lapse.

(2) The state patrol may use up to \$100,000 of the state patrol highway account appropriation to conduct a study of current management programs and levels of staffing for management positions within the Washington state patrol. This study is to include, but not be limited to management program requirements and relative growth of the number of positions at each management level by program. A detailed study plan is to be presented to the legislative transportation committee by May 1, 1994. Study findings and recommendations for modifications to the management structure are to be presented to the legislative transportation committee by September 30, 1994.

(3) It is the intent of the legislature that: (a) There be no cadet classes during the 1993-95 biennium; and (b) the chief of the Washington state patrol shall maintain the current field force level of seven hundred troopers and sergeants through management reductions.

\*Sec. 7 was partially vetoed, see message at end of chapter.

**Sec. 8.** 1993 sp.s. c 23 s 9 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING—MANAGEMENT OPERATIONS**

General Fund—Wildlife Account—State	
Appropriation . . . . .	\$           ((46,000))
	66,000
Transportation Fund—State Appropriation . . . . .	\$           ((414,000))
	771,000
Highway Safety Fund—State Appropriation . . . . .	\$           ((5,523,000))
	4,673,000
Highway Safety Fund—Motorcycle Safety Education	
Account—State Appropriation . . . . .	\$           ((96,000))
	76,000
Motor Vehicle Fund—State Appropriation . . . . .	\$           ((4,379,000))
	3,996,000
TOTAL APPROPRIATION . . . . .	\$           ((10,458,000))
	9,582,000

The legislative transportation committee has adopted recommendations and taken specific legislative action to improve the department of licensing service delivery, as well as other transportation agencies' services.

The legislature has recognized the need to improve the department of licensing service-delivery system, specifically driver and vehicle licensing services. The legislature has provided funding for three separate strategic initiatives to enhance the department of licensing and other transportation related services offered to the public. The legislature, in this and previous legislative sessions, has provided funding for: (a) The licensing application migration

project (LAMP); (b) a capital budget program; and (c) the reclassification of licensing personnel. The legislature funded these three strategic initiatives to improve services to the public.

Recognizing the significant changes required throughout the department as a result of the licensing application migration project, the new capital budget program, and the reclassification of licensing personnel, the legislature finds there is a need to develop a comprehensive strategic plan to establish the foundation for future changes which will be required to maximize productivity improvements associated with the three strategic initiatives, and to maximize customer service-delivery improvements.

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

(1)(a) By May 1, 1994, the department shall provide the legislative transportation committee and the office of financial management with a workplan for the development of a strategic initiatives plan.

(b) By September 1, 1994, the department shall provide the legislative transportation committee and the office of financial management with a plan implementing the above mentioned strategic initiatives and that profiles how and when the department of licensing intends to implement the changes necessary to achieve the benefits associated with such strategic initiatives funded by the legislature.

(2) The strategic initiatives plan shall include at a minimum the following elements: (a) Implementation schedule; (b) analysis of alternatives; (c) employee education and communication strategies regarding plan implementation; (d) an analysis of costs, benefits, and full time equivalents; and (e) a recommendation for a preferred alternative.

(3) The department may use up to \$50,000 of the motor vehicle fund—state appropriation, and \$50,000 of the highway safety fund—state appropriation provided for in this section for the development of the workplan and a strategic initiatives plan.

**Sec. 9.** 1993 sp.s. c 23 s 10 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING—INFORMATION SYSTEMS**  
 General Fund—Wildlife Account—State

Appropriation . . . . .	\$	<del>((221,000))</del>
		<u>127,000</u>
Transportation Fund—State Appropriation . . . . .	\$	<del>((247,000))</del>
		<u>1,376,000</u>
Highway Safety Fund—State Appropriation . . . . .	\$	<del>((5,131,000))</del>
		<u>10,625,000</u>
Highway Safety Fund—Motorcycle Safety Education Account—State Appropriation . . . . .	\$	<del>((50,000))</del>
		<u>5,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((9,869,000))</del>
		<u>17,011,000</u>

TOTAL APPROPRIATION . . . . .	\$	<del>((15,518,000))</del>
		29,144,000

~~((Contained))~~ The appropriations in this ((appropriation is \$10,000,000)) section are subject to the following conditions and limitations:

(1) \$22,000,000 for the licensing application migration project (LAMP), of which ~~\$(6,000,000)~~ 13,200,000 is motor vehicle fund—state and ~~\$(4,000,000)~~ 8,800,000 highway safety fund—state.

(2) Of the ~~\$(10,000,000)~~ 22,000,000 appropriation ~~\$(500,000)~~ 1,100,000 is provided solely as a contingency amount. ((The appropriation for LAMP is conditioned upon))

(3) Compliance with ((section 49 of this act. If section 49 of this act is not enacted during the 1993 legislative session, then the \$10,000,000 appropriation for the licensing application migration project (LAMP) shall lapse.)) section 49, chapter 23, Laws of 1993 sp. sess.

(4) The steering committee specified in the licensing application migration project (LAMP) feasibility study, dated July 7, 1992, shall meet no less than bi-monthly. In addition to the existing steering committee membership established in the feasibility study, the LAMP project director, the LAMP contractor's project manager, the LAMP quality assurance consultant, and a representative of the Washington state patrol shall be ex officio members of the LAMP steering committee.

(5) The LAMP quality assurance consultant shall provide the LAMP steering committee with bi-monthly reports on the status of the LAMP project. The bi-monthly reports shall be on alternate months from the bi-monthly reports provided by the department of information services. The reports required in this subsection shall also be delivered to the senate and house of representatives transportation committee chairs.

(6) The department of licensing, department of information services, and the Washington state patrol shall report to the LAMP steering committee and the legislative transportation committee by September 1, 1994, on the costs and benefits associated with the operations of the LAMP system at the Washington state patrol data center.

**Sec. 10.** 1993 sp.s. c 23 s 11 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING—VEHICLE SERVICES**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((49,076,000))</del>
		44,860,000
General Fund—Marine Fuel Tax Refund Account—		
State Appropriation . . . . .	\$	26,000
General Fund—Wildlife Account—State		
Appropriation . . . . .	\$	520,000
Department of Licensing Services Account—		
State Appropriation . . . . .	\$	<del>((676,000))</del>
		4,176,000

TOTAL APPROPRIATION . . . . . \$ ~~((50,298,000))~~  
49,582,000

Sec. 11. 1993 sp.s. c 23 s 12 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LICENSING—DRIVER SERVICES**

Transportation Fund—State Appropriation . . . . . \$ ~~((4,396,000))~~  
1,871,000

Highway Safety Fund—State Appropriation . . . . . \$ ~~((51,929,000))~~  
54,765,000

Highway Safety Fund—Motorcycle Safety Education  
 Account—State Appropriation . . . . . \$ 1,300,000

TOTAL APPROPRIATION . . . . . \$ ~~((57,625,000))~~  
57,936,000

~~(((\$400,000 of the highway safety fund motorcycle safety education account appropriation in this section is provided solely to enhance the motorcycle testing program. If Senate Bill No. 5101 is not enacted during the 1993 legislative session, the \$400,000 appropriation is null and void.))~~

NEW SECTION. Sec. 12. A new section is added to 1993 sp.s. c 23 to read as follows:

Notwithstanding section 7(11)(a), chapter 14, Laws of 1991 sp. sess., the department of licensing shall not be assessed a space use charge for the highway-licenses building until there is a statutorily adopted space use charge or debt service plan by the legislature.

Sec. 13. 1993 sp.s. c 23 s 13 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE TRANSPORTATION COMMITTEE**

Motor Vehicle Fund—State Appropriation . . . . . \$ ~~((2,644,000))~~  
2,591,000

Sec. 14. 1993 sp.s. c 23 s 16 (uncodified) is amended to read as follows:

**FOR THE TRANSPORTATION COMMISSION**

Transportation Fund—State Appropriation . . . . . \$ ~~((1,637,000))~~  
1,604,000

The appropriation in this section is subject to the following conditions and limitations: The Washington state transportation commission shall make recommendations on the facility, operations, and funding components of implementing passenger-only service from Seattle/Vashon/Southworth and Seattle/Kingston. Such recommendations shall be submitted to the governor and the legislative transportation committee on or before September 30, 1993.

Sec. 15. 1993 sp.s. c 23 s 21 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—STATE HIGHWAY RESURFACING, RESTORATION, REHABILITATION, AND SAFETY—PROGRAM A**

Motor Vehicle Fund—State Appropriation . . . . . \$ ~~((174,337,000))~~  
182,023,000

Motor Vehicle Fund—Federal Appropriation . . . . .	\$	98,040,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	3,460,000
TOTAL APPROPRIATION . . . . .	\$	<del>((275,837,000))</del>
		<u>283,523,000</u>

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects designated as category "A" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) Up to \$650,000 of the motor vehicle fund—state appropriation is provided solely for an inventory of drainage facilities; analysis of water sources entering the Washington department of transportation facilities; testing for contaminants; analyzing the flow of discharged stormwater; and developing a prioritization system that will enable the department to evaluate proposed construction projects with regard to their effects on sensitive water bodies.

(2) Up to \$1,326,000 of the motor vehicle fund—state appropriation is provided for fish passage barrier removal. The department of transportation shall cooperate with the department of fisheries to continue retrofit work now in progress, finalize the inventory, and begin additional projects as funds allow.

(3) Up to \$1,200,000 of the motor vehicle fund—state appropriation is provided for the state match for the scenic highways program. In the event the full state match is not required, the remainder shall revert to the motor vehicle fund for future appropriation.

(4) Up to \$33,400,000 of the motor vehicle fund—state appropriation is provided for a one-time expenditure for additional category A projects. It is the intent that the appropriations in this section do not commit the governor or the legislature to the transportation commission's proposed category A program update.

(5) The motor vehicle fund—state appropriation includes \$9,500,000 in proceeds from the sale of bonds authorized in RCW 47.10.761 and 47.10.762. These funds shall be expended for emergency purposes only.

NEW SECTION. Sec. 16. 1993 sp.s. c 23 s 40 (uncodified) is repealed.

Sec. 17. 1993 sp.s. c 23 s 22 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—INTERSTATE HIGHWAY CONSTRUCTION—PROGRAM B**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((85,245,000))</del>
		<u>80,245,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	446,000,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	4,000,000
TOTAL APPROPRIATION . . . . .	\$	<del>((535,245,000))</del>
		<u>530,245,000</u>

The appropriations in this section are provided for the location, design, right of way, and construction of state highway projects on the interstate system



designated as category "B" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) The motor vehicle fund—state appropriation includes a maximum of \$50,800,000 in proceeds from the sale of bonds authorized by RCW 47.10.790 and 47.10.801. However, 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) Should cash flow demands exceed the motor vehicle fund—federal appropriation, the motor vehicle fund—state appropriation is increased proportionally to provide matching state funds from the sale of bonds authorized by RCW 47.10.801 and 47.10.790 not to exceed \$10,000,000 and it is understood that the department shall seek authority to expend unanticipated receipts for the federal portion.

(3) It is further recognized that the department may make use of federal cash flow obligations on interstate construction contracts in order to complete the interstate highway system as expeditiously as possible.

(4) Up to \$7,185,000 of the appropriation in this section is provided for construction of demonstration projects specified in the federal intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914). State funds needed for the federal match requirements shall be from the bonds sales proceeds not to exceed \$1,437,000 as authorized by (~~Senate Bill No. 5371~~) RCW 47.10.819 through 47.10.824. However, 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.

(5) Up to ~~\$(30,000,000)~~ 25,000,000 of the motor vehicle fund—state appropriation in this section is provided to expedite high occupancy vehicle lane construction on the interstate system.

(6) Pending the receipt of federal funds appropriated in this section, up to \$120,000,000 of bonds authorized by chapter 6, Laws of 1993, may be sold to fund interstate construction project expenditures in advance of the receipt of federal funds. However, the transportation commission may authorize the use of current revenues available to the department of transportation in lieu of bond proceeds.

**Sec. 18.** 1993 sp.s. c 23 s 23 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MAJOR NONINTERSTATE HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((77,540,000))</del>
		<u>75,200,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	66,948,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	<del>((5,000,000))</del>
		<u>16,000,000</u>
Transportation Fund—State Appropriation . . . . .	\$	<del>((64,724,000))</del>
		<u>13,564,000</u>
Special Category C—State Appropriation . . . . .	\$	<del>((166,833,000))</del>

	147,833,000
<u>General Fund—State Appropriation . . . . .</u>	<u>\$ 70,000,000</u>
<u>Puyallup Tribal Settlement Account—</u>	
State Appropriation . . . . .	\$ 44,024,000
<u>Puyallup Tribal Settlement Account—</u>	
Private Local Appropriation . . . . .	\$ 6,000,000
TOTAL APPROPRIATION . . . . .	\$ ((431,069,000))
	<u>439,569,000</u>

The appropriations in this section are provided for the location, design, right of way acquisition, and construction of state highway projects designated as category "C" under RCW 47.05.030. The appropriations in this section are subject to the following conditions and limitations:

(1) The motor vehicle fund—state appropriation includes \$32,800,000 in proceeds from the sale of bonds authorized by RCW 47.10.790 and 47.10.801. However, 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 motor vehicle fund—state appropriation includes proceeds of up to \$8,400,000 from the sale of bonds authorized by House Bill No. 2593 (highway improvement funding) or substantially similar legislation. If House Bill No. 2593 (highway improvement funding) or substantially similar legislation is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

(3) Up to \$44,000,000 of the motor vehicle fund—federal appropriation in this section is provided for construction of demonstration projects specified in the federal intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914). The motor vehicle fund—state appropriation includes \$11,000,000 or so much as may be required for the federal match requirements, which shall be from the bond sales proceeds as authorized by ~~((Senate Bill No. 5371))~~ RCW 47.10.819 through 47.10.824. However, 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. No bond proceeds shall be used to pay for a federal demonstration study project.

~~((3))~~ (4) The special category C fund—state appropriation of ~~\$(166,833,000)~~ 147,833,000 includes ~~\$(108,000,000)~~ 89,000,000 in proceeds from the sale of bonds authorized by ~~((Senate Bill No. 5343))~~ RCW 47.10.812 through 47.10.817 for the 1st Avenue South Bridge in Seattle, North-South Corridor/Division Street improvements in Spokane, and selected sections of State Route 18. However, 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))~~ Up to \$45,760,000 of the motor vehicle fund—state appropriation, \$64,724,000 of the transportation fund—state appropriation, and \$14,948,000 of the motor vehicle fund—federal appropriation provided for in this section are for regular category C projects. Of the appropriations specified in this subsection,

~~up to ten percent may be expended for preliminary engineering and right-of-way. The remainder shall be expended for construction contracts, including \$10,295,000 for HOV lane projects on noninterstate state highways. Quarterly, beginning July 1, 1993, the department shall provide to the legislative transportation committee a list of the construction contracts awarded under this subsection and the amount of each contract award.))~~

(5) Up to \$143,712,000 of the motor vehicle fund—state, motor vehicle fund—federal, motor vehicle fund—local, transportation fund—state, and general fund—state appropriations contained in this section are cumulatively provided from all funds, solely for construction projects already under construction as assumed in section 23(4), chapter 23, Laws of 1993 sp. sess. To the extent that the department projects that the general fund—state appropriation in this section will not be fully expended for the purposes of this section, the department may expend the general fund—state moneys appropriated in this section for the projects authorized in: As a first priority, section 20 of this act; as a second priority, section 21 of this act; and as a third priority, section 22 of this act. The general fund—state expenditure under this section and sections 20, 21, and 22 of this act, cumulatively, shall not exceed \$93,925,000.

(6) \$21,000,000 of the motor vehicle fund—state appropriation is provided solely for additional HOV lane projects on noninterstate state highways. Quarterly, beginning July 1, 1993, the department shall provide to the legislative transportation committee a list of the construction contracts awarded under this subsection and the amount of each contract award.

~~((6))~~ (7) Up to \$2,000,000 of the motor vehicle fund—state appropriation and \$1,000,000 of the motor vehicle fund—local appropriation contained in this section is provided solely for the construction of rest areas provided local and/or private contributions of at least forty percent of total project costs are made. Local and/or private contributions may be in the form of in-kind contributions including but not limited to donations of property and services.

**NEW SECTION. Sec. 19.** A new section is added to 1993 sp.s. c 23 to read as follows:

There is hereby appropriated from the motor vehicle fund—state, \$15,500,000 in proceeds from the sale of bonds authorized in chapter 11, Laws of 1993 sp. sess. These funds shall be expended for the following projects:

- (1) SR 99 SEA TAC INTERNATIONAL BLVD;
- (2) SR 18 SR 99 TO SR 5 - HOV LANES;
- (3) SR 304 SR 3 TO BREMERTON FERRY TERMINAL;
- (4) SR 2 LEAVENWORTH INTERMODAL IMP.;
- (5) SR 16 OLYMPIC INTERCHANGE;
- (6) SR 5 SUNSET DR. I/C - I/C MODIFICATIONS;
- (7) SR 512 94TH AVE. E. INTERCHANGE; and
- (8) SR 14 164TH AVE. INTERCHANGE.

These projects are not necessarily in prioritized order and are not subject to the provisions of chapter 490, Laws of 1993. The appropriation contained in this section fulfills the state's contribution toward the completion of these projects.

**NEW SECTION. Sec. 20.** A new section is added to 1993 sp.s. c 23 to read as follows:

There is hereby appropriated cumulatively from the motor vehicle fund—state, the transportation fund—state, and the general fund—state, up to \$35,500,000 for preliminary engineering, right of way acquisition, and construction of the following regular category C projects:

- (1) SPRING ST TO JOHNSON RD (627000D);
- (2) W. LK SAMM. PKWY. TO SR 202 (152038A);
- (3) DIAMOND LAKE CHANNELIZATION (600232E);
- (4) 15TH SW TO SR 161 U-XING (351214A);
- (5) ANDRESEN ROAD TO SR 503 (450093B);
- (6) NE 144TH ST TO BATTLEGROUNDS (450387B);
- (7) STEAMBOAT ISLAND RD I/C (310199A);
- (8) GRAHAM HILL VICINITY (316111A);
- (9) NORTH OF WINSLOW - STAGE 1 (330505A);
- (10) SR 5 TO BLANDFORD DRIVE (401487A);
- (11) 32ND STREET INTERCHANGE (316711A); and
- (12) SUNNYSLOPE I/C - STAGE 2 (228531A).

These projects are not necessarily in prioritized order and are not subject to the provisions of chapter 490, Laws of 1993.

The total expenditures under this section from all fund sources, including funds transferred under section 18(5) of this act, shall not exceed \$35,500,000. The general fund—state expenditure under this section and sections 18, 21, and 22 of this act, cumulatively, shall not exceed \$93,925,000.

**NEW SECTION. Sec. 21.** A new section is added to 1993 sp.s. c 23 to read as follows:

There is hereby appropriated cumulatively from the motor vehicle fund—state, the transportation fund—state, and the general fund—state, up to \$27,100,000 for preliminary engineering and right of way acquisition for the following projects:

- (1) SO 360TH ST/MILTON RD SO TO SR 18 - STAGE 1 (116105B);
- (2) SR 522 TO 228TH ST. SE - STAGE 1 (100900E);
- (3) 104TH AVE NE TO 124TH AVE NE I/C (152020B) - C;
- (4) 124TH NE I/C TO W. LAKE SAMM. PKWY. (152031A) - C;
- (5) LEWIS STREET INTERCHANGE (501203Y);
- (6) SR 202 INTERCHANGE (152039D);
- (7) SE 312TH WAY TO SE 304TH ST - STAGE 2 (101811B);
- (8) SR 82 TO SELAH (582301C);
- (9) O'BRIEN TO LEWIS RD (310108B);
- (10) NE 147TH TO 80TH NE - HOV LANES (152212A) - C;

- (11) OLD CASCADE HWY - TO DECEPTION CR - STG 1 (200200B);  
 (12) PROPHETS POINT TO OLD CASCADE HWY - STG 2 (200200C);

and

- (13) SEQUIM BYPASS (310154A).

These projects are not necessarily in prioritized order and are not subject to the provisions of chapter 490, Laws of 1993.

Funding for the construction of these projects is not available in the 1995-97 biennium.

The total expenditures under this section from all fund sources, including funds transferred under section 18(5) of this act, shall not exceed \$27,100,000. The general fund—state expenditures under this section and sections 18, 20, and 22 of this act, cumulatively, shall not exceed \$93,925,000.

**NEW SECTION.** Sec. 22. A new section is added to 1993 sp.s. c 23 to read as follows:

There is hereby appropriated cumulatively from the motor vehicle fund—state, the transportation fund—state, and the general fund—state, up to \$22,900,000 for the following high occupancy vehicle construction projects:

- (1) 15TH ST SW TO 84TH AVE SO. - STAGE 2 (116703C) - C;
- (2) 15TH ST SW TO 84TH AVE SO. - STAGE 2 (116703D) - C;
- (3) PIERCE C.L. TO TUKWILA I/C - STAGE 1 (A00505B) - B;
- (4) FEDERAL WAY PARK & RIDE #2 (A00503A) - B;
- (5) LYNNWOOD PARK & RIDE #2 - STAGE 1 (A00534A) - B; and
- (6) PIERCE C.L. TO TUKWILA I/C - STAGE 2 (A00505C) - B.

These projects are not necessarily in prioritized order and are not subject to the provisions of chapter 490, Laws of 1993. The appropriation in this section is not intended to fund the entire list of projects contained within this section.

The total expenditures under this section from all fund sources, including funds transferred under section 18(5) of this act, shall not exceed \$22,900,000. The general fund—state expenditures under this section and sections 18, 20, and 21 of this act, cumulatively, shall not exceed \$93,925,000.

**NEW SECTION.** Sec. 23. A new section is added to 1993 sp.s. c 23 to read as follows:

With the completion of the projects contained in section 18 (5) and (6) of this act, and sections 19 through 22 of this act, the legislature determines it has fulfilled its commitments made with the passage of the 1990 transportation revenue program, chapter 42, Laws of 1990.

**NEW SECTION.** Sec. 24. A new section is added to 1993 sp.s. c 23 to read as follows:

Should the normal project delivery schedule in sections 20, 21, and 22 of this act result in higher than expected cash flow expenditures in any one section, the department is authorized to move funds among the sections provided the total of \$85,500,000 is not exceeded, and, provided that the department completes all construction projects identified in section 20 of this act; completes preliminary

engineering and right of way on all construction projects identified in section 21 of this act; and, expends the appropriation provided solely for high occupancy vehicle construction projects in section 22 of this act.

**\*NEW SECTION. Sec. 25.** *A new section is added to 1993 sp.s. c 23 to read as follows:*

*It is the intent of the legislature that if the revenues are insufficient to support the appropriations contained in this act for major noninterstate highway construction—program C, the transportation commission shall first reduce and/or eliminate the funding for the projects contained in section 22 of this act, and then section 21 of this act, and finally section 20 of this act.*

*\*Sec. 25 was vetoed, see message at end of chapter.*

**NEW SECTION. Sec. 26.** A new section is added to 1993 sp.s. c 23 to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—MAJOR NONINTERSTATE HIGHWAY CONSTRUCTION—PROGRAM C**

Motor Vehicle Fund—State Appropriation . . . . . \$ 2,000,000

The appropriation is provided solely for preliminary engineering for projects to be constructed in future biennia, such as state route no. 522.

**Sec. 27.** 1993 sp.s. c 23 s 25 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MANAGEMENT AND FACILITIES—PROGRAM D**

Motor Vehicle Fund—State Appropriation . . . . . \$ ((31,028,000))  
29,589,000

Motor Vehicle Fund—Federal Appropriation . . . . . \$ 400,000

Motor Vehicle Fund—Transportation Capital Facilities  
Account—State Appropriation . . . . . \$ ((40,480,000))  
42,230,000

TOTAL APPROPRIATION . . . . . \$ ((71,908,000))  
72,219,000

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

(1) Up to \$750,000 of the motor vehicle fund—transportation capital facilities account—state appropriation is provided to implement the Americans with Disabilities Act (P.L. 101-336 42 U.S.C. Sec. 12101 et seq.).

(2) The transportation commission shall evaluate the current organizational structure of the department of transportation with regard to: (a) The number and allocation of full-time employees required to support the department’s environmental efforts; (b) the qualifications of such full-time employees; (c) the amount of authority each environmental position carries; (d) the chain of command governing such environmental positions; (e) the effectiveness of the organization with regard to proactively negotiating environmental policies with state, federal, and local units of government; (f) the ability of the department to assimilate, incorporate, and disseminate environmental information between and among the

department's various divisions, branches, sections, and districts; and (g) the ability of the department to plan, budget, and account for such environmental costs. The transportation commission shall develop a plan to maximize the effectiveness of the environmental activities within the department and shall provide specific recommendations regarding any organizational changes that may be warranted.

(3) Up to \$50,000 of the motor vehicle fund—state appropriation is provided solely for the computer aided engineering support team for the purpose of design visualization.

**Sec. 28.** 1993 sp.s. c 23 s 26 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—AERONAUTICS—PROGRAM F**

General Fund—Aeronautics Account—State

Appropriation . . . . .	\$	<del>((3,106,000))</del>
		<u>5,106,000</u>

General Fund—Aeronautics Account—Federal

Appropriation . . . . .	\$	652,000
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General Fund—Search and Rescue Account—State

Appropriation . . . . .	\$	130,000
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<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((3,888,000))</del></b>
		<b><u>5,888,000</u></b>

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

(1) The aeronautics account appropriations in this section are provided for management and support of the aeronautics division, state fund grants to local airports, development and maintenance of a state-wide airport system plan, maintenance of state-owned emergency airports, and federal inspections.

(2) The search and rescue account—state appropriation in this section is provided for directing and conducting searches for missing, downed, overdue, or presumed downed general aviation aircraft; for safety and education activities necessary to insure safety of persons operating or using aircraft; and for the Washington wing civil air patrol in accordance with RCW 47.68.370.

**\*Sec. 29.** 1993 sp.s. c 23 s 27 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—COMMUNITY ECONOMIC REVITALIZATION—PROGRAM G**

Motor Vehicle Fund—Economic Development Account—

State Appropriation . . . . .	\$	<del>((5,020,000))</del>
		<u>10,020,000</u>

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

(1) The appropriation in this section is funded with the proceeds from the sale of bonds authorized by RCW 47.10.801 and is provided for improvements to the state highway system necessitated by planned economic development.

However, the transportation commission may authorize the transfer of funds from the motor vehicle fund in lieu of bond proceeds for this state appropriation, if House Bill No. 2593 (highway improvement funding) or substantially similar legislation is enacted by the legislature.

(2) This appropriation contains up to \$5,000,000 solely for the necessary infrastructure to support the development of a horse racing facility approved by the horse racing commission.

\*Sec. 29 was partially vetoed, see message at end of chapter.

**Sec. 30.** 1993 sp.s. c 23 s 28 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—NONINTERSTATE BRIDGES—PROGRAM H**

Motor Vehicle Fund—State Appropriation . . . . .	\$	((45,027,000))
		<u>48,027,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	71,000,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	1,000,000
TOTAL APPROPRIATION . . . . .	\$	((117,027,000))
		<u>120,027,000</u>

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

(1) The appropriations in this section are provided to preserve the structural and operating integrity of existing bridges. It is the intent that this appropriation does not commit the governor nor the legislature to the transportation commission’s proposed twenty-year bridge program.

(2) Up to \$5,000,000 of the motor vehicle fund—state appropriation is provided solely for rehabilitation of state-owned moveable bridges.

(3) The appropriations contained in this section include \$10,000,000 for the bridge seismic retrofit program.

(4) The department of transportation shall provide to the legislative transportation committee and the office of financial management by December 1, 1994, a written status report identifying: (a) The bridges to be retrofitted within this appropriation; and (b) the actual expenditures by project through November 1, 1994, compared to the estimated expenditures, as well as total estimated expenditures through June 30, 1995.

(5) Following adoption of state criteria to evaluate local flood plain management ordinances by the flood hazard task force, the department of transportation shall report to the chairs of the house of representatives and senate transportation committees on those programmatic and fiscal impacts resulting from: (a) Passage of Substitute House Bill No. 2462; and (b) adoption of local flood plain ordinances pursuant to the growth management act.

**Sec. 31.** 1993 sp.s. c 23 s 29 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—HIGHWAY MAINTENANCE AND OPERATIONS—PROGRAM M**

Motor Vehicle Fund—State Appropriation . . . . .	\$	((238,692,000))
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	<u>238,156,000</u>
Motor Vehicle Fund—Local Appropriation . . . . . \$	4,690,000
TOTAL APPROPRIATION . . . . . \$	((243,382,000))
	<u>242,846,000</u>

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

(1) Up to \$300,000 of the motor vehicle fund—state appropriation is provided to develop and implement a roadside vegetation management plan to comply with the Puget Sound water quality authority management plan. Emphasis shall be placed on nonchemical vegetation control.

(2) Up to \$910,000 of the motor vehicle fund—state appropriation is provided for additional maintenance to prevent mechanical and electrical problems on floating bridges, maintenance on the Lacey V. Murrow floating bridge, and compliance with department of labor and industries maintenance regulations.

(3) Up to \$600,000 of the motor vehicle fund—state appropriation is provided for testing and disposal of hazardous materials and for interjurisdictional and/or interagency development of eight treatment facilities.

(4) Up to \$2,411,000 of the motor vehicle fund—state appropriation is provided to expedite and enhance traffic signal improvements.

(5) Up to \$2,700,000 of the motor vehicle fund—state appropriation is provided solely for work force safety equipment.

(6) It is the intent of the legislature that the legislative transportation committee study the impact upon the department of transportation of the utilities accommodation policy, requiring the removal of power poles, guy lines, and junction boxes adjacent to state highways. The committee shall report its findings to the legislature no later than November 15, 1995. No additional moneys are appropriated in this section for the purpose of doing additional utility clear zone work.

Sec. 32. 1993 sp.s. c 23 s 31 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—  
TRANSPORTATION MANAGEMENT AND SUPPORT—PROGRAM S**

Motor Vehicle Fund—Puget Sound Capital Construction	
Account—State Appropriation . . . . . \$	1,109,000
Motor Vehicle Fund—State Appropriation . . . . . \$	((51,475,000))
	<u>51,668,000</u>
Motor Vehicle Fund—Puget Sound Ferry Operations	
Account—State Appropriation . . . . . \$	1,105,000
Transportation Fund—State Appropriation . . . . . \$	((897,000))
	<u>1,723,000</u>
TOTAL APPROPRIATION . . . . . \$	((54,586,000))
	<u>55,605,000</u>

Up to \$~~((526,000))~~ 826,000 of the transportation fund—state appropriation is provided for the implementation of ~~((Substitute House Bill No. 1006))~~ chapter 47.46 RCW.

**Sec. 33.** 1993 sp.s. c 23 s 32 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSIT RESEARCH AND INTERMODAL PLANNING—PROGRAM T**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((46,376,000))</del>
		<u>15,631,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	16,314,000
High Capacity Transportation Account—		
State Appropriation . . . . .	\$	<del>((17,500,000))</del>
		<u>18,300,000</u>
Transportation Fund—State Appropriation . . . . .	\$	<del>((44,088,000))</del>
		<u>44,788,000</u>
Transportation Fund—Federal Appropriation . . . . .	\$	5,852,000
Transportation Fund—Local Appropriation . . . . .	\$	100,000
Central Puget Sound Public Transportation Account—		
State Appropriation . . . . .	\$	<del>((21,100,000))</del>
		<u>18,563,000</u>
Public Transportation Systems Account—State		
Appropriation . . . . .	\$	5,500,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((126,830,000))</del>
		<u>125,048,000</u>

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

(1) Up to \$~~((31,000,000))~~ 33,200,000 of the transportation fund—state appropriation is provided for administrative costs, operating subsidies for contracted AMTRAK 403(b) service, and for capital projects to improve train speeds and service.

(2) Up to \$~~((9,200,000))~~ 7,000,000 of the transportation fund—state appropriation is provided for state participation in the planning and construction of passenger rail depots and other passenger intermodal facilities.

(3) The central Puget Sound public transportation account—state appropriation and the public transportation systems account—state appropriation shall be distributed to local transit agencies based on the allocation process defined in ~~((Substitute House Bill No. 2036. These appropriations are null and void if Substitute House Bill No. 2036 is not enacted by the legislature))~~ chapter 393, Laws of 1993.

(4) Of the \$3,400,000 motor vehicle fund—state appropriation provided for regional transportation planning organizations, funds not allocated to such organizations may be used for a discretionary grant program for special regional planning projects, to be administered by the department of transportation.

(5) Up to \$250,000 of the motor vehicle fund—state appropriation contained in this section is provided solely for the Puget Sound transportation investment program. The program shall pay special attention to the Edmonds/Kingston run and development of an intermodal terminal at Point Edwards. Work on the program shall be completed and reported to the legislative transportation committee no later than ~~((December 15, 1993))~~ June 30, 1995.

(6) Up to \$1,500,000 of the transportation fund—state appropriation contained in this section is provided solely for the rural mobility program.

(7) Up to \$800,000 of the high capacity transportation account—state appropriation contained in this section, which does not require local match and is not subject to the allocation process specified in RCW 81.104.090, and up to \$700,000 of the transportation fund—state appropriation contained in this section is provided for the central Puget Sound regional transit authority for matching funds for grants from subsection (bbb) and subsection (ccc) of section 3035 of United States P.L. 102-240 and for other costs required by RCW 81.104.140.

*\*Sec. 34. 1993 sp.s. c 23 s 34 (uncodified) is amended to read as follows:  
FOR THE DEPARTMENT OF TRANSPORTATION—CHARGES FROM  
OTHER AGENCIES—PROGRAM U*

<i>Motor Vehicle Fund—State Appropriation . . . . .</i>	<i>\$</i>	<i>((30,124,000))</i>
		<i>29,567,000</i>
<i>Motor Vehicle Fund—Puget Sound Ferry Operations</i>		
<i>Account—State Appropriation . . . . .</i>	<i>\$</i>	<i>2,000,000</i>
<i>TOTAL APPROPRIATION . . . . .</i>	<i>\$</i>	<i>((32,124,000))</i>
		<i>31,567,000</i>

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

*The appropriations in this section are to provide for costs billed to the department for services provided by other state agencies as follows:*

*(1) Archives and records management, \$258,000 motor vehicle fund—state appropriation;*

*(2) Attorney general tort claims support, \$4,692,000 motor vehicle fund—state appropriation;*

*(3) Office of the state auditor, \$793,000 motor vehicle fund—state appropriation;*

*(4) Department of general administration facility and services, \$3,037,000 motor vehicle fund—state appropriation;*

*(5) Department of personnel, \$3,088,000 motor vehicle fund—state appropriation;*

*(6) Self-insurance liability premiums and administration, \$15,574,000 motor vehicle fund—state appropriation. If Senate Bill No. 6252 (government liability limits) is not enacted by June 30, 1994, the amount contained in this subsection, the motor vehicle fund—state appropriation and the total appropriation contained in this section are increased by \$250,000;*

(7) Department of general administration for capital projects performed on the transportation Olympia headquarters building and for maintenance work on the department of transportation/plaza parking garage, \$1,704,000 motor vehicle fund—state appropriation;

(8) Office of minority and women’s business enterprises, \$421,000 motor vehicle fund—state appropriation;

(9) Marine division self-insurance liability premiums and administration, \$2,000,000 motor vehicle fund—Puget Sound ferry operations account—state appropriation.

\*Sec. 34 was vetoed, see message at end of chapter.

**Sec. 35.** 1993 sp.s. c 23 s 35 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE CONSTRUCTION—PROGRAM W**

Motor Vehicle Fund—Puget Sound Capital Construction	
Account—State Appropriation . . . . .	\$ ((235,746,000))
	<u>198,150,000</u>
Motor Vehicle Fund—Puget Sound Capital Construction	
Account—Federal Appropriation . . . . .	\$ ((32,237,000))
	<u>29,972,000</u>
Motor Vehicle Fund—Puget Sound Capital Construction	
Account—Private/Local Appropriation . . . . .	\$ 900,000
TOTAL APPROPRIATION . . . . .	\$ ((268,883,000))
	<u>229,022,000</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:

(1) The appropriations in this section are provided to carry out only the projects presented to the legislature (version 4) for the 1993-95 budget. The department shall reconcile the 1991-93 capital expenditures within ninety days of the end of the biennium and submit a final report to the legislative transportation committee and office of financial management.

(2) The Puget Sound capital construction account—state appropriation includes \$15,000,000 in proceeds from the sale of bonds authorized by RCW 47.60.560 and \$~~((16,126,000))~~ 80,807,000 in proceeds from the sale of bonds authorized by RCW 47.60.800. However, the department of transportation may use current revenues available to the Puget Sound capital construction account in lieu of bond proceeds for any part of the state appropriation.

(3) The appropriation in this section provides for the construction, in the state of Washington, of new jumbo ferry vessels in accordance with the requirements of (~~Substitute House Bill No. 1635~~) RCW 47.60.770 through 47.60.778. The transportation commission shall provide progress reports to the

legislative transportation committee and the governor regarding the implementation of ~~((Substitute House Bill No. 1635))~~ RCW 47.60.770 through 47.60.778.

(4) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the capital program authorized in this section.

**Sec. 36.** 1993 sp.s. c 23 s 36 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—MARINE—PROGRAM X**

Marine Operating Fund—State Appropriation . . . . . \$ 237,559,000

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

(1) The appropriation is based on the budgeted expenditure of \$27,123,000 for vessel operating fuel in the 1993-95 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 contained in this section provides for the compensation of ferry employees. The expenditures for compensation paid to ferry employees during the 1993-95 biennium may not exceed \$159,183,000 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 \$324.20 a month annualized per eligible marine employee multiplied by the number of eligible marine employees for the respective fiscal year, and a dollar amount as prescribed by the office of financial management for costs associated with pension amortization charges. 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 insurance benefit increase dollar amount that shall be allocated from the governor's compensation insurance benefits appropriation is in addition to the appropriation contained in this section and may be used to increase compensation costs, effective July 1, 1993, and July 1, 1994.

(3) The appropriation in this section includes \$500,000 to (a) ensure the marine division of the department of transportation's compliance with RCW 88.46.060 through a contractual agreement between Washington state ferries and the Washington state maritime commission and (b) assist Washington state ferries in oil spill prevention, planning, and education in accordance with chapter 43.211 RCW.

(4) The appropriation in this section includes \$154,000 for support of Clinton terminal agent expenses, but shall be expended only upon the construction of a new Clinton terminal.

(5) The appropriation in this section includes \$359,000 to provide, during the summer, eight hours of Issaquah vessel class service on the Edmonds/ Kingston route. This amount shall be expended only if the super class vessel refurbishment program impacts super class vessel service on this route.

(6) The appropriation in this section includes \$185,000 to assess the ability of enhancing vessel maintenance for those routes that require extensive service schedules throughout the year by placing additional oiler staff hours on ~~((two))~~ select routes during the ~~((1993-94 fiscal year))~~ 1993-95 biennium. The results of this maintenance approach shall be reported to the legislative transportation committee and the office of financial management by ~~((December 1, 1993))~~ October 1, 1994.

(7) The department of transportation shall provide to the legislative transportation committee and office of financial management a quarterly financial report concerning the status of the operating program authorized in this section.

**Sec. 37.** 1993 sp.s. c 23 s 37 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF TRANSPORTATION—LOCAL PROGRAMS—PROGRAM Z**

Motor Vehicle Fund—State Appropriation . . . . .	\$	<del>((7,594,000))</del>
		<u>31,486,000</u>
Motor Vehicle Fund—Federal Appropriation . . . . .	\$	161,033,000
Motor Vehicle Fund—Local Appropriation . . . . .	\$	5,086,000
Transfer Relief Account—State Appropriation . . . . .	\$	<del>((3,920,000))</del>
		<u>1,751,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((177,633,000))</del>
		<u>199,356,000</u>

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

(1) Up to \$6,774,000 of the motor vehicle fund—federal appropriation in this section is provided for construction of demonstration projects specified in the federal intermodal surface transportation efficiency act (P.L. 101-240; 105 Stat. 1914). The motor vehicle fund—state appropriation includes \$570,000 for the federal match requirements, which shall be from the bond sales proceeds as authorized by ~~((Senate Bill No. 5374))~~ RCW 47.10.819 through 47.10.824. However, 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) Up to \$300,000 of the motor vehicle fund—state appropriation is for a special study to be completed by December 1, 1994, that mutually benefits cities, counties, and the state. This study shall address the statutory and procedural barriers within each jurisdiction that inhibit a multijurisdictional approach to environmental mitigation; identify potential mitigation projects that might be more appropriate to address on a comprehensive regional basis rather than a project-by-project basis; assess whether or not a regional approach is achievable;

and, if it is, identify candidate regional projects. Estimates of cost allocations between participating jurisdictions shall be made, including recommendations on appropriate funding sources. The study shall further identify those resources that could be shared between jurisdictions, including, but not limited to, hazardous waste sites, gravel pit sites, "bioremediation farms," wetland banks, pesticide storage facilities, and other transportation related activities that require environmental monitoring, mitigation, or protection.

(3) Up to \$400,000 of the motor vehicle fund—state appropriation in this section is provided solely for the study contained in Substitute House Bill No. 1928 that mutually benefits cities, counties, and the state department of transportation.

(4) The motor vehicle fund—state appropriation includes \$25,000,000 in proceeds from the sale of bonds authorized in RCW 47.10.819 through 47.10.824.

NEW SECTION. Sec. 38. 1993 sp.s. c 23 s 41 (uncodified) is repealed.

Sec. 39. 1993 sp.s. c 23 s 39 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRANSPORTATION—TRANSFER**

**Motor Vehicle Fund—State Appropriation**

For transfer to the Transportation Capital Facilities

Account—State Appropriation . . . . . \$ ~~((40,480,000))~~  
38,080,000

Transportation Equipment Fund—State Appropriation:

For transfer to the Motor Vehicle Fund—State

Appropriation . . . . . \$ 3,000,000

Motor Vehicle Fund—State Appropriation:

For transfer to the Economic Development Account—State Appropriation—\$12,020,000 of which \$10,020,000 shall be transferred to fund the appropriation contained in section 29 of this act and up to \$2,000,000 shall be used to eliminate cash deficiencies that have accumulated in the economic development account over several biennia. If House Bill No. 2593 (highway improvement funding) or substantially similar legislation is not enacted by June 30, 1994, \$7,020,000 of the amount provided in this transfer shall lapse . . . . . \$ 12,020,000

Transfer Relief Fund—State Appropriation:

For transfer to the Motor Vehicle

Fund—State . . . . . \$ 3,000,000

TOTAL APPROPRIATION . . . . . \$ 56,100,000

NEW SECTION. Sec. 40. A new section is added to 1993 sp.s. c 23 to read as follows:

**ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** (1) The department of licensing may enter into financial contracts, paid for from operating revenues, for the purposes indicated

and in not more than the principal amounts indicated, plus financing expenses and required reserves under chapter 39.94 RCW as follows:

(a) Lease-development with option to purchase or lease-purchase a new customer service center in Vancouver for \$1,704,000; and

(b) Lease-development with option to purchase or lease-purchase a new customer service center in North Spokane for \$2,230,000.

(2) When securing properties under this section, the department shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements, or financial contracts using certificates of participation.

**NEW SECTION. Sec. 41.** A new section is added to 1993 sp.s. c 23 to read as follows:

The Washington state patrol, the department of licensing, and the department of transportation shall report to the house of representatives and senate transportation committees of the legislature by September 15, 1994, on those projects contained within each agency's ten-year capital plan that consolidate services or activities between the agencies through joint construction of transportation facilities.

**Sec. 42.** 1993 sp.s. c 23 s 47 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE PATROL—CAPITAL**

Motor Vehicle Fund—State Patrol Highway

Account—State Appropriation . . . . .	\$	((10,485,000))
		<u>8,562,000</u>
Motor Vehicle Fund—State Appropriation . . . . .	\$	765,000
Highway Safety Fund—State Appropriation . . . . .	\$	765,000
TOTAL APPROPRIATION . . . . .	\$	((12,015,000))
		<u>10,092,000</u>

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

(1) The appropriations in this section are provided for the following projects:

- (a) WSP/DOL DIST OFFICE—TACOMA<sub>1</sub>;
- (b) EVERETT DIST HDQTRS BUILDING<sub>1</sub>;
- (c) MINOR WORKS PRESERVATION<sub>1</sub>;
- ((SHELTON TRNG ACAD RESTROOM REPAIR))
- (d) REPLACE UNDERGROUND STORAGE TANKS<sub>1</sub>;
- ((REPLACE RATTLESNAKE RIDGE COMMUNICATION SITE))
- (e) SHELTON ACADEMY PROPERTY ACQUISITION<sub>1</sub>;
- ((VANCOUVER CVE INSPECTION STATION  
MT. VERNON COMM SITE CONSTRUCTION  
SPOKANE CVE INSPECTION STATION))
- (f) REPLACE SCALE MECHANISM SEATAC SOUTH<sub>1</sub>;
- (g) YAKIMA DISTRICT HDQTRS PREDESIGN<sub>1</sub>;
- (h) I-90 PORT OF ENTRY WEIGH STATION<sub>1</sub>;



- (i) SMOKEY POINT WEIGH STATION DESIGN; and
- (i) MORTON DETACHMENT PROPERTY ACQUISITION
- ((LONGVIEW VIN LANE CONSTRUCTION PROPERTY ACQUISITION)).

Of the appropriations provided in this subsection, it is the intent of the legislature to defer as many of these capital projects as possible.

(2) The state patrol shall conduct a needs assessment of its facilities for compliance with Americans with disabilities act (ADA) standards. The study shall be provided to the office of financial management and the legislative transportation committee by September 15, 1994.

NEW SECTION. Sec. 43. A new section is added to 1993 sp.s. c 23 to read as follows:

If Senate Bill No. 6553 (seismic retrofiting) is enacted by January 1, 1995, the total appropriation contained in section 4 of this act "For the Transportation Improvement Board" is increased by \$7,070,000 and the total appropriation contained in section 30 of this act "For the Department of Transportation—Noninterstate Bridges—Program H" is increased by \$14,354,000.

NEW SECTION. Sec. 44. A new section is added to 1993 sp.s. c 23 to read as follows:

The department of transportation is authorized to transfer all revenues from the gasohol exemption holding account to the motor vehicle fund—state, as needed, to fund Category C highway projects. If House Bill No. 2326 (gasohol exemption repeal) is not enacted by January 1, 1995, this section shall be null and void.

***\*NEW SECTION. Sec. 45. If unforeseen fluctuations in revenue cause a shortfall in funding the motor vehicle fund—state appropriations contained in this act, and if the office of financial management determines pursuant to RCW 43.88.050 that a cash deficiency is projected for the motor vehicle fund, the office of financial management shall direct the state treasurer to make short-term loans to the motor vehicle fund to alleviate such deficiencies. Such loans shall accrue interest at the rate actually realized on investments of general fund balances, and shall be repaid as soon as practicable or as soon as sufficient revenues have accumulated in the motor vehicle fund.***

\*Sec. 45 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 46. 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. 47. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

DEPARTMENT OF LICENSING

DRIVER SERVICES .....	1961
INFORMATION SYSTEMS .....	1959
MANAGEMENT OPERATIONS .....	1958
VEHICLE SERVICES .....	1960

DEPARTMENT OF TRANSPORTATION

PROGRAM A .....	1961
PROGRAM B .....	1962
PROGRAM C .....	1963, 1968
PROGRAM D .....	1968
PROGRAM F .....	1969
PROGRAM G .....	1969
PROGRAM H .....	1970
PROGRAM M .....	1970
PROGRAM S .....	1971
PROGRAM T .....	1972
PROGRAM U .....	1973
PROGRAM W .....	1974
PROGRAM X .....	1975
PROGRAM Z .....	1976
TRANSFER .....	1977

LEGISLATIVE TRANSPORTATION COMMITTEE .....

STATE PATROL

FIELD OPERATIONS BUREAU .....	1956
INVESTIGATIVE SERVICES BUREAU .....	1957
SUPPORT SERVICES BUREAU .....	1957

TRAFFIC SAFETY COMMISSION .....

TRANSPORTATION COMMISSION .....

TRANSPORTATION IMPROVEMENT BOARD .....

WASHINGTON STATE PATROL

CAPITAL .....	1978
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Passed the Senate March 8, 1994.

Passed the House February 26, 1994.

Approved by the Governor April 2, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1994.

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

"I am returning herewith, without my approval as to sections 2, page 2, lines 6 through 9; 2(2); 5, page 4, lines 8 through 10; 5(4); 6, page 4, line 37, and page 5, lines 1 and 2; 7, page 5, lines 18 and 19; 7(1); 7(2); 7(3); 25; 29(2); 34; and 45 of Engrossed Substitute Senate Bill No. 6084 entitled:

"AN ACT Relating to transportation appropriations;"

My reasons for vetoing these sections are as follows:

**Sections 2, page 2, lines 6 through 9; 2(2); 7, page 5, lines 18 and 19; and 7(1), Abolishment of the Traffic Safety Commission and Transfer of Responsibility to the State Patrol**

These sections of the supplemental transportation budget would abolish the Traffic Safety Commission as of July 1, 1994 and place the Commission's responsibilities in the State Patrol. I agree with the legislature that a decision should be made whether the effectiveness of state traffic safety activities would be improved by placing these functions in some other agency. I also believe this discussion should be complete and a decision made in the next session. I am vetoing these sections now to provide the opportunity for further consideration of this matter. Also, veto of section 7(1) is necessary to prevent the loss of over \$2.5 million in federal funds because Senate Bill No. 6523, referred to in the proviso, was not enacted.

It is my intention that the State Patrol make these Highway Safety Fund appropriations available to the Traffic Safety Commission to perform the Commission's authorized responsibilities in the fiscal year beginning July 1, 1994. This veto also prevents the transfer of a \$300,000 Transportation Fund appropriation from the Traffic Safety Commission to the State Patrol but reverses the planned \$12,000 reduction from that fund. As the \$12,000 was reduced, because it was identified as unnecessary, I am directing the Traffic Safety Commission to place this amount in reserve status.

I am also directing the Traffic Safety Commission and OFM to work with the legislature to identify the alternatives for placement of traffic safety activities and to address any substantive concerns regarding Traffic Safety Commission service delivery approaches and staffing levels. My recommendations on these matters will be presented to the next session of the legislature.

**Section 5, page 4, lines 8 through 10, Reductions in Field Operations Bureau and the Elimination of the Safety Education Officer Program**

This veto restores approximately \$2 million in State Patrol Highway Account funding that contains several budget actions including the elimination of the patrol's Safety Education Officer program (SEO), commonly known as Trooper Bob. The SEO program staff provides training and education to the state's school age population regarding pedestrian, bicycle and highway safety, drug and alcohol prevention, and youth violence prevention. Last year Trooper Bobs contacted approximately 380,000 students. They are an important element in the state's effort to prevent the problems that plague our schools and our communities.

I concur with the other priorities assumed in this appropriation including savings identified by reducing the number of vehicle replacements, selected staffing reductions, and increasing expenditures for alcohol breath test equipment. These actions will be accomplished through the allotment process.

**Section 5(4), Limitations on Vehicle Assignment**

This section states that "Only commissioned officers and commercial vehicle enforcement officers involved directly and primarily in traffic enforcement activities will be assigned vehicles by the Washington State Patrol." This language limits the patrol's ability to provide vehicles required to effectively respond to emergency calls. These assigned vehicles contain specialized equipment such as sirens, radio equipment, emergency lights, and first aid equipment that are essential to reaching emergency scenes in an expeditious manner and to being fully equipped to provide assistance upon arrival.

While these problems illustrate the defects of the proviso as it was enacted, I share the legislature's concern over the assignment of state vehicles. I am directing the Washington State Patrol to complete a thorough review of its policy regarding vehicle assignment, and to present a plan to me and to the legislature by June 30, 1994 detailing

how the number of individually assigned vehicles will be significantly decreased from the current level. I fully expect that only those employees who have a clear need connected to the safety of the public will be assigned a state vehicle.

**Section 6, page 4, line 37, and page 5, line 1 through 2, Crime Lab Reduction and Fund Shift of Motor Vehicle Funds with State Patrol Highway Account Funds**

This section reduces State Patrol Highway Account funding for the Investigative Services Bureau by \$749,000. This amount is a combination of a \$900,000 reduction in crime lab funding, a net increase of \$121,000 in ACCESS funding, and a \$30,000 increase in staffing for microanalysis work performed by the crime labs. The cut in the crime labs of \$900,000 represents a 23 percent reduction and would result in service cutbacks that would hinder law enforcement and the ability of prosecuting attorneys to investigate and prosecute criminal cases. The severity of this reduction was recognized by the Legislature when it provided a partial restoration through the addition of \$200,000 from the Transportation Fund in Section 402 of the operating budget. Even with the partial restoration, the crime lab would be reduced by 18 percent if not for this veto. This would result in approximately 3,750 fewer cases being analyzed with a corresponding impact on the effectiveness of prosecutions.

This veto has the effect of preserving essential crime lab activities.

**Section 7(2), State Patrol Management Study**

This section allows the Washington State Patrol to spend up to \$100,000 for a study of current management programs and staffing of management positions. I agree that a study of management staffing levels is appropriate, but the expenditure of \$100,000 for this effort is not necessary. Therefore, I am directing the Washington State Patrol to design a study as described in this section in cooperation with the Office of Financial Management. The results of this study will be presented to the legislature when the study is complete and incorporated into my budget recommendations for the next biennium.

**Section 7(3), Forbidding Cadet Classes and Maintaining Field Force Levels through Management Reductions**

This section requires the Washington State Patrol to maintain a field force level of 700 troopers and sergeants through reductions in management, and prohibits a cadet class for the remainder of this biennium. While I agree that it is important to maintain the field force level to protect the citizens of the state, this proviso does not accomplish the goal for two reasons. First, there will simply not be enough administrative staff that could reasonably be transferred to the field force sufficient to offset the projected level of field force retirements and attrition. Second, the prohibition of a cadet class eliminates the other avenue of acquiring replacement troopers.

The legislature acknowledges the first problem in Section 7(2) of this bill when it authorizes funds to "conduct a study of current management programs and levels of staffing for management positions within the Washington State Patrol". If it was clear that sufficient administrative staff transfers to the field were available without damaging the agency's operations, a study would be unnecessary.

I believe a more effective approach to maintaining an adequate field force level is to conduct an academy class for existing cadets and, wherever appropriate, to undertake the transfer of administrative staff to the field. I am directing the patrol to take both of these actions as soon as possible.

**Section 25, Project Funding Priorities**

This section directs the Transportation Commission to reduce or eliminate projects in a specified order should revenues fall below the level assumed in the supplemental transportation budget. This veto removes the language which specified the order of reduction—restoring the responsibility to make these choices to the Transportation Commission. The commission needs flexibility in exercising its responsibility to make project priority selections and to balance highway construction program expenditures with available resources.

**Section 29(2), Horse Racing Track Infrastructure**

This section specifies that \$5 million in the Community Economic Revitalization Board (CERB) fund is dedicated solely for transportation infrastructure related to a new race track once it is approved by the Horse Racing Commission. This proviso sidesteps the CERB policy for selection of projects through competitive application. With this veto, the \$5 million appropriation remains for use on CERB approved projects. If and when a race track location is approved by the Horse Racing Commission, the horse racing track project can compete for transportation infrastructure funding along with other projects through the regular CERB process.

**Section 34, Charges From Other Agencies**

The Motor Vehicle Fund (MVF) appropriation for DOT revolving fund charges is reduced and the section is restructured as separate line items for each of the eight different revolving fund charges. This reduction in the total amount provided means the agency cannot pay the charges for basic custodial and utility services. This veto restores the flexibility of the single line item approach and prevents the reduction in the total amount available. Even though the original appropriation does not provide the full amount needed for all anticipated revolving fund charges, the flexibility provided by the single line item format allows DOT to meet minimum obligations for the Department of General Administration facilities and services costs and for the Office of Minority and Women Business Enterprises expenses.

**Section 45, Treasury Loan**

This section provides for a treasury loan to the Motor Vehicle Fund should a temporary cash deficiency be projected. This section is not necessary. Treasury loans automatically occur for short term cash deficits for all funds and accounts.

With the exceptions of sections 2, page 2, lines 6 through 9; 2(2); 5, page 4, lines 8 through 10; 5(4); 6, page 4, line 37, and page 5, lines 1 and 2; 7, page 5, lines 18 and 19; 7(1); 7(2); 7(3); 25; 29(2); 34; and 45, Engrossed Substitute Senate Bill No. 6084 is approved."

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**CHAPTER 304**

[Engrossed Substitute Senate Bill 6155]

**STUDENT RECORDS—RELEASE—BACKGROUND DISCLOSURE—  
CONFLICT MANAGEMENT**

AN ACT Relating to schools; amending RCW 28A.635.060 and 13.32A.040; adding a new section to chapter 28A.225 RCW; and providing an effective date.

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

**Sec. 1.** RCW 28A.635.060 and 1993 c 347 s 3 are each amended to read as follows:

(1) Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. Any school district whose property has been lost or willfully cut, defaced, or injured, may withhold the grades, diploma, and transcripts of the pupil responsible for the damage or loss until the pupil or the pupil's parent or guardian has paid for the damages(~~(, unless the student is transferring to another elementary or secondary educational institution, in which case the student's permanent record shall be released promptly to the receiving school)~~). When the pupil and parent or guardian are unable to pay for the damages, the school district shall provide a program of voluntary work for the pupil in lieu of the payment of monetary damages. Upon completion of voluntary work the grades, diploma, and transcripts of the pupil shall be released. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law.

(2) Before any penalties are assessed under this section, a school district board of directors shall adopt procedures which insure that pupils' rights to due process are protected.

(3) If the department of social and health services or a child-placing agency licensed by the department has been granted custody of a child, that child's records, if requested by the department or agency, are not to be withheld for nonpayment of school fees or any other reason.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 28A.225 RCW to read as follows:

(1) When enrolling a student who has attended school in another school district, the school enrolling the student may request the parent and the student to briefly indicate in writing whether or not the student has:

- (a) Any history of placement in special educational programs;
- (b) Any past, current, or pending disciplinary action;
- (c) Any history of violent behavior;
- (d) Any unpaid fines or fees imposed by other schools; and
- (e) Any health conditions affecting the student's educational needs.

(2) The school enrolling the student shall request the school the student previously attended to send the student's permanent record including records of disciplinary action. If the student has not paid a fine or fee under RCW 28A.635.060, the school may withhold the student's official transcript, but shall transmit information about the student's academic performance, special placement, and records of disciplinary action. If the official transcript is not sent due to unpaid fees or fines, the enrolling school shall notify both the student and parent or guardian that the official transcript will not be sent until the obligation is met, and failure to have an official transcript may result in exclusion from extracurricular activities or failure to graduate.

(3) If information is requested under subsection (2) of this section, the information shall be transmitted within two school days after receiving the request.

**Sec. 3.** RCW 13.32A.040 and 1990 c 276 s 4 are each amended to read as follows:

Families who are in conflict or who are experiencing problems with at-risk youth may request family reconciliation services from the department. Such services shall be provided to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the child or family and to maintain families intact wherever possible. Family reconciliation services shall be designed to develop skills and supports within families to resolve problems related to at-risk youth or family conflicts and may include but are not limited to referral to services for suicide prevention, psychiatric or other medical care, or psychological, welfare, legal, educational, or other social services, as appropriate to the needs of the child and the family. Upon a referral by a school or other appropriate agency, family reconciliation services may also include training in parenting, conflict management, and dispute resolution skills.

**NEW SECTION.** Sec. 4. This act shall take effect July 1, 1994.

Passed the Senate March 5, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 305

[Senate Bill 6205]

### READY-MIX CEMENT TRUCK LOAD RESTRICTIONS

AN ACT Relating to load regulations for ready-mix mixer trucks; and adding a new section to chapter 46.44 RCW.

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

**NEW SECTION.** Sec. 1. A new section is added to chapter 46.44 RCW to read as follows:

The switch that controls the raising and lowering of the retractable rear booster or tag axle on a ready-mix cement truck may be located within the reach of the driver's compartment as long as the variable control, used to adjust axle loadings by regulating air pressure or by other means, is out of the reach of the driver's compartment.

Passed the Senate March 5, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

CHAPTER 306

[Senate Bill 6220]

QUALITY ACHIEVEMENT AWARD PROGRAM—QUALITY AWARD COUNCIL ORGANIZED

AN ACT Relating to quality awards; adding a new section to chapter 43.330 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 43.330 RCW to read as follows:

The Washington quality award council shall be organized as a part of the private, nonprofit corporation quality for Washington state foundation, with the assistance of the department, in accordance with chapter 24.03 RCW and this section.

(1) The council shall oversee the governor’s Washington state quality achievement award program. The purpose of the program is to improve the overall competitiveness of the state’s economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state’s economy. The program shall annually recognize organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations.

(2) The council shall consist of the governor and the director, as chair and vice-chair, respectively, and recognized professionals who shall have backgrounds in or experience with effective quality improvement techniques, employee involvement quality of work life initiatives, and development of innovative labor-management relations. The initial membership of the board beyond the chair and vice-chair shall be appointed by the governor from a list of nominees submitted by the quality for Washington state foundation. The list of nominees shall include representatives from the governor’s small business improvement council, the Washington state efficiency commission, the Washington state productivity board, the Washington state service quality network, the association for quality and participation, the American society for quality control, business and labor associations, educational institutions, elected officials, and representatives from former recipients of international, national, or state quality awards.

(3) The council shall establish a board of examiners, a recognition committee, and such other subcouncil groups as it deems appropriate to carry out its responsibilities. Subcouncil groups established by the council may be composed of noncouncilmembers.

(4) The council shall receive its administrative support and operational expenses from the quality for Washington state foundation.



(5) The council shall, in conjunction with the quality for Washington state foundation, compile a list of resources available for organizations interested in productivity improvement, quality techniques, effective methods of work organization, and upgrading work force skills as a part of the quality for Washington state foundation's ongoing educational programs. The council shall make the list of resources available to the general public, including labor, business, nonprofit and public agencies, and the department.

(6) The council, in conjunction with the quality for Washington state foundation, may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(7) The council shall:

(a) Approve and announce achievement award recipients;

(b) Approve guidelines to examine applicant organizations;

(c) Approve appointment of judges and examiners;

(d) Arrange appropriate annual awards and recognition for recipients, in conjunction with the quality for Washington state foundation;

(e) Formulate recommendations for change in the nomination form or award categories, in cooperation with the quality for Washington state foundation; and

(f) Review related education, training, technology transfer, and research initiatives proposed by the quality for Washington state foundation.

(8) By January 1st of each even-numbered year, the council shall report to the governor and the appropriate committees of the legislature on its activities in the preceding two years and on any recommendations in state policies or programs that could encourage quality improvement and the development of high-performance work organizations.

(9) The council shall cease to exist on July 1, 2004, unless otherwise extended by law.

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

\*Sec. 2 was vetoed, see message at end of chapter.

Passed the Senate March 5, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 2, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 2, 1994.

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

"I am returning herewith, without my approval as to section 2, Senate Bill No. 6220 entitled:

"AN ACT Relating to quality awards;"

Senate Bill No. 6220 creates the Quality Award Council to be appointed by the Governor. The council would promote attention to producing quality products and

services in the private and public sectors through educational activities and an annual award. The Quality Award Council is modeled on the national Malcolm Baldrige Award and the International Deming Award.

I am very supportive of the ideals expressed in this bill. I have committed my administration to continuously improving the quality of public sector services as evidenced by cabinet level appointments to the Quality Service Network, by the newly merged Department of Fish and Wildlife and Department of Community, Trade and Economic Development with their development of outcome based measures of service, quality and effectiveness, and my participation with the legislature in the Washington Performance Partnership initiative.

Although I strongly support the creation of an award which would recognize excellence in quality, I am concerned about the vehicle used to establish the award. Senate Bill No. 6220 creates a council in statute at a time when I have been working with the legislature to minimize statutory boards and commissions. Moreover, the awkward organizational structure created by this bill seems an unnecessary and complicated means toward an otherwise laudable goal.

Nonetheless, with the exception of section 2 which would provide for an immediate implementation of this bill, I am signing Senate Bill No. 6220 because I am comfortable that the Quality Award Council and the quality achievement award program can be structurally tailored to meet the objectives of recognizing quality and improving competitiveness. I have directed my staff to work with the Quality Service Network, the legislature, and other interested parties to improve the award process contained in this bill and to minimize impacts on state government while maintaining visibility for quality production and service delivery in both the public and private sectors.

With the exception of section 2, Senate Bill No. 6220 is approved."

## CHAPTER 307

[Engrossed Substitute Senate Bill 6228]

### GROWTH MANAGEMENT—FOREST LAND DESIGNATION—FINFISH IN UPLAND HATCHERIES

AN ACT Relating to definitions of agricultural and forest land of long-term commercial significance; amending RCW 36.70A.030; and creating a new section.

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

**NEW SECTION.** **Sec. 1.** The legislature finds that it is in the public interest to identify and provide long-term conservation of those productive natural resource lands that are critical to and can be managed economically and practically for long-term commercial production of food, fiber, and minerals. Successful achievement of the natural resource industries' goal set forth in RCW 36.70A.020 requires the conservation of a land base sufficient in size and quality to maintain and enhance those industries and the development and use of land use techniques that discourage uses incompatible to the management of designated lands. The 1994 amendment to RCW 36.70A.030(8) (section 2(8) of this act) is intended to clarify legislative intent regarding the designation of forest lands and is not intended to require every county that has already complied with the interim forest land designation requirement of RCW 36.70A.170 to review its actions until the adoption of its comprehensive plans and development regulations as provided in RCW 36.70A.060(3).

**Sec. 2.** RCW 36.70A.030 and 1990 1st ex.s. c 17 s 3 are each amended to read as follows:

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

(1) "Adopt a comprehensive land use plan" means to enact a new comprehensive land use plan or to update an existing comprehensive land use plan.

(2) "Agricultural land" means land primarily devoted to the commercial production of horticultural, viticultural, floricultural, dairy, apiary, vegetable, or animal products or of berries, grain, hay, straw, turf, seed, Christmas trees not subject to the excise tax imposed by RCW 84.33.100 through 84.33.140, finfish in upland hatcheries, or livestock, and that has long-term commercial significance for agricultural production.

(3) "City" means any city or town, including a code city.

(4) "Comprehensive land use plan," "comprehensive plan," or "plan" means a generalized coordinated land use policy statement of the governing body of a county or city that is adopted pursuant to this chapter.

(5) "Critical areas" include the following areas and ecosystems: (a) Wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.

(6) "Department" means the department of community, trade, and economic development.

(7) "Development regulations" means any controls placed on development or land use activities by a county or city, including, but not limited to, zoning ordinances, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances.

(8) "Forest land" means land primarily ~~((useful for))~~ devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, including Christmas trees subject to the excise tax imposed under RCW 84.33.100 through 84.33.140, ~~((for commercial purposes;))~~ and that has long-term commercial significance ~~((for growing trees commercially))~~. In determining whether forest land is primarily devoted to growing trees for long-term commercial timber production on land that can be economically and practically managed for such production, the following factors shall be considered: (a) The proximity of the land to urban, suburban, and rural settlements; (b) surrounding parcel size and the compatibility and intensity of adjacent and nearby land uses; (c) long-term local economic conditions that affect the ability to manage for timber production; and (d) the availability of public facilities and services conducive to conversion of forest land to other uses.

(9) "Geologically hazardous areas" means areas that because of their susceptibility to erosion, sliding, earthquake, or other geological events, are not suited to the siting of commercial, residential, or industrial development consistent with public health or safety concerns.

(10) "Long-term commercial significance" includes the growing capacity, productivity, and soil composition of the land for long-term commercial

production, in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(11) "Minerals" include gravel, sand, and valuable metallic substances.

(12) "Public facilities" include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, domestic water systems, storm and sanitary sewer systems, parks and recreational facilities, and schools.

(13) "Public services" include fire protection and suppression, law enforcement, public health, education, recreation, environmental protection, and other governmental services.

(14) "Urban growth" refers to growth that makes intensive use of land for the location of buildings, structures, and impermeable surfaces to such a degree as to be incompatible with the primary use of such land for the production of food, other agricultural products, or fiber, or the extraction of mineral resources. When allowed to spread over wide areas, urban growth typically requires urban governmental services. "Characterized by urban growth" refers to land having urban growth located on it, or to land located in relationship to an area with urban growth on it as to be appropriate for urban growth.

(15) "Urban growth areas" means those areas designated by a county pursuant to RCW 36.70A.110.

(16) "Urban governmental services" include those governmental services historically and typically delivered by cities, and include storm and sanitary sewer systems, domestic water systems, street cleaning services, fire and police protection services, public transit services, and other public utilities associated with urban areas and normally not associated with nonurban areas.

(17) "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 for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from nonwetland sites, including, but not limited to, irrigation and drainage ditches, grass-lined swales, canals, detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities. However, wetlands may include those artificial wetlands intentionally created from nonwetland areas created to mitigate conversion of wetlands, if permitted by the county or city.

Passed the Senate March 6, 1994.

Passed the House March 2, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

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## CHAPTER 308

[Substitute Senate Bill 6243]

## CAPITAL BUDGET

AN ACT Relating to the capital budget; amending 1993 sp.s. c 22 ss 106, 110, 113, 122, 126, 137, 138, 139, 140, 141, 143, 147, 157, 162, 202, 203, 210, 214, 230, 252, 279, 280, 282, 285, 286, 290, 294, 299, 300, 302, 303, 306, 401, 403, 406, 408, 423, 427, 428, 430, 431, 432, 460, 459, 462, 463, 466, 468, 469, 474, 475, 476, 477, 507, 518, 519, 603, 515, 708, 731, 733, 745, 757, 791, 808, 813, 1002, and 1011 (uncodified); adding new sections to 1993 sp.s. c 22; repealing 1993 sp.s. c 22 s 101 (uncodified); making appropriations and authorizing expenditures for the capital improvements; and declaring an emergency.

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

## PART 1

## GENERAL GOVERNMENT

**Sec. 1.** 1993 sp.s. c 22 s 106 (uncodified) is amended to read as follows:  
**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

**To purchase land (~~for~~), design, and construct a new (~~higher education institution~~) collocated community college and University of Washington branch campus (94-1-003)**

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

(1) The appropriation in this section is provided to acquire property (~~for~~), design, and construct a new (~~institution of higher education~~) collocated community college and University of Washington branch campus to meet the higher education needs of the north King and south Snohomish county area (~~(- A minimum of four sites shall be evaluated by the higher education coordinating board for purchase with this appropriation);~~);

(2) The location of the property to be acquired for the new collocated campus shall be determined by the higher education coordinating board. The higher education coordinating board shall acquire a site contingent upon a satisfactory site selection environmental impact statement, any necessary environmental permits, and fiscal approval by the office of financial management. The higher education coordinating board may obtain an option on a second site if it becomes reasonably apparent that contingencies on the first site will not be met;

(3) The appropriation in this section shall not be expended to purchase property unless the office of financial management has made a reasonable determination that potential storm water and flood water will not damage property or buildings to be constructed on the proposed site, result in mitigation actions that cost more than comparable property in the general area, or possess characteristics which require extraordinary environmental mitigation or engineering safeguards;

~~((3))~~ (4) The appropriation in this section shall not be expended to purchase property until a site development plan is proposed for the site that accommodates all proposed buildings outside of any potential flood plain;

~~((4))~~ (5) The legislature recognizes that additional appropriations may be required for development of the new institution in future biennia; ~~((and~~

~~(5))~~ (6) The office of financial management may consider any studies, whether or not still in progress, relevant to this appropriation; and

(7) The moneys provided in this section shall be allocated to the appropriate agencies by the office of financial management.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((4,500,000))</del>
		<u>25,210,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<del>((4,500,000))</del>
		<u>25,210,000</u>

Sec. 2. 1993 sp.s. c 22 s 110 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

**Capital budget system improvements (94-2-002)**

The office of financial management shall develop standards for allowable staffing expenses attributable to capital projects and include those standards in the capital budget instructions for the 1995-97 ten-year capital plan. The standards shall:

(1) Identify the allowable expenses for construction management, administration, support, overhead, and other categories of staffing costs directly associated with planning and management of capital projects;

(2) Identify allowable expenses attributable to work performed by state employees or contracted through purchased services or personal service contracts other than those identified in subsection (1) of this section; and

(3) Identify the types of staffing expenses that are not appropriately paid from cash or bond capital project funding sources.

The office of financial management shall report to the appropriate committees of the legislature by February 10, 1995, on the amount of staffing expenses and the number of full-time equivalent employees estimated to be funded by capital appropriations during the 1993-1995 biennium.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	100,000
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**Appropriation:**

St Bldg Constr Acct . . . . .	\$	300,000
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Prior Biennia (Expenditures) . . . . .	\$	0
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Future Biennia (Projected Costs) . . . . .	\$	<u>1,200,000</u>
TOTAL . . . . .	\$	1,600,000

NEW SECTION. **Sec. 3.** A new section is added to 1993 sp.s. c 22 to read as follows:

**Watershed Restoration Partnership Program:** For watershed and fish and wildlife habitat restoration

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

(1) The legislature finds that it has already appropriated more than \$40,000,000 in the 1993-1995 operating and capital budgets for watershed restoration and protection programs and that the federal government has also begun to invest funds in a long-term program to restore and preserve watersheds on nonstate lands in the state. The appropriations in this section shall be deposited in the watershed restoration account, which is hereby created in the state treasury. The intent of the legislature in making this appropriation, and the purposes of the watershed restoration account, are to:

- (a) Restore and protect watersheds in accordance with priorities established to benefit fish stocks in critical or depressed condition as determined by the department of fish and wildlife;
- (b) Avoid, to the greatest extent feasible, additional federal regulation of potentially endangered species;
- (c) Provide a mechanism to accept federal funds dedicated to the state of Washington for watershed restoration;
- (d) Conduct watershed restoration and protection projects primarily on state lands in coordination with federal, local, tribal, and private sector efforts;
- (e) Demonstrate the state's commitment to watershed restoration and protection while seeking additional federal funding; and
- (f) Expedite the expenditure of funds on a scientific basis for fish stock recovery and, to that end, contracted services and other techniques for providing accelerated local construction services should be utilized.

(2) Except as provided in subsection (4) of this section, this appropriation is solely for capital projects jointly selected by the department of natural resources and fish and wildlife. Funds may be expended for directly associated planning, design and engineering for capital projects, which restore and protect priority watersheds which have been jointly identified, and selected by the department of fish and wildlife and the department of natural resources. Funds from the watershed recovery account shall be expended for projects which conform to priorities for fish stock recovery developed through watershed analysis conducted by the department of natural resources and the department of fish and wildlife's salmon and steelhead stock inventory. Funds expended from the watershed recovery account shall be used for specific projects and not for ongoing operational costs. Examples of the types of eligible projects include, but are not limited to, closure or improvement of forest roads, repair of culverts,

clean-up of stream beds, removal of fish barriers, installation of fish screens, fencing of streams, and construction and planting of fish cover.

(3) Subject to the requirements of subsection (2) of this section, at least \$2,000,000 shall be allocated for local initiative grants for environmental and forest restoration projects.

(4) The department of natural resources and the department of fish and wildlife, in consultation with the watershed coordinating council, the office of financial management, and other appropriate agencies, shall report to the appropriate committees of the legislature by January 1, 1995, on any expenditures made from this appropriation and a plan for future use of the moneys provided in this section. The plan shall include a prioritized list of watersheds and future watershed projects. The plan shall also consider future funding needs, the availability of federal funding, the integration and coordination of existing watershed and protection programs, and the possibility of submitting a referendum to the voters of the state to provide future state funding.

(5) All projects shall be consistent with any development regulations or comprehensive plans adopted under the growth management act for the project areas. No funds shall be expended to acquire land through condemnation.

**Appropriation:**

General Fund .....	\$	5,000,000
Wildlife Fund .....	\$	500,000
Aquatic Lands Enhancement Acct	\$	2,500,000
Water Quality Acct .....	\$	<u>2,000,000</u>
Subtotal Appropriation .....	\$	10,000,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	10,000,000

Sec. 4. 1993 sp.s. c 22 s 113 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Highways-Licenses Building: To complete the construction to renovate the Highway-Licenses Building on the capitol campus (88-5-011) (92-2-003)**

The appropriation shall not be expended until the capital project review requirements of section 1015 of this act have been met.

**Reappropriation:**

St Bldg Constr Acct .....	\$	<del>((18,000,000))</del>
		<u>16,950,000</u>
Prior Biennia (Expenditures) .....	\$	4,938,000
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	<del>((22,938,000))</del>
		<u>21,888,000</u>



Sec. 5. 1993 sp.s. c 22 s 122 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Tumwater Satellite Campus Land Acquisition:** To purchase in fee simple real property for future state development in the city of Tumwater (92-5-000)

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

(1) The appropriations are provided solely for land acquisition, and shall not be expended until the office of financial management has approved a specific plan for development of the Tumwater satellite campus.

(2) Before expending any moneys from the appropriations, the department shall obtain a written agreement from the city of Tumwater, the port of Olympia, and the Tumwater school district requiring the consent of the office of financial management for any state responsibility or liability associated with general infrastructure development or facility relocation within the Tumwater campus planning area.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 890,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ ((3,600,000))

3,265,046

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . \$ 0

TOTAL . . . . . \$ ((4,490,000))

4,155,046

Sec. 6. 1993 sp.s. c 22 s 126 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Collocation and consolidation of state facilities:** To identify the current locations of major concentrations of state facilities within the state and determine where state facilities can be collocated and consolidated (92-5-004)

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

(1) The department shall prepare policy recommendations and cost estimates for opportunities to collocate and consolidate state facilities, including a comparison of the benefits and costs of purchasing or leasing such facilities and an analysis of private sector impacts.

(2) The appropriations shall not be spent until a detailed scope of work has been reviewed and approved by the office of financial management.

(3) The reappropriation is provided solely to complete phase one of the project, begun in the 1991-93 biennium.

(4) \$40,000 of this appropriation is provided solely for planning, negotiation, and development of collocated state facilities in Spokane, Tacoma, and Port Angeles.

(5) \$75,000 of this appropriation is provided to identify areas of the state with potential for efficiencies from collocation and consolidation of state facilities and to prepare implementation plans.

<b>Reappropriation:</b>	
St Bldg Constr Acct . . . . .	\$ 105,000
<b>Appropriation:</b>	
St Bldg Constr Acct . . . . .	\$ <del>((300,000))</del>
	<u>415,000</u>
Prior Biennia (Expenditures) . . . . .	\$ 120,000
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ <del>((525,000))</del>
	<u>640,000</u>

Sec. 7. 1993 sp.s. c 22 s 137 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Capitol Campus preservation (94-1-010)**

<b>Appropriation:</b>	
St Bldg Constr Acct . . . . .	\$ <del>((3,037,000))</del>
	<u>219,000</u>
Cap Bldg Constr Acct . . . . .	\$ <del>((388,000))</del>
	<u>3,206,000</u>
Subtotal Appropriation . . . . .	\$ 3,425,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 27,259,550
TOTAL . . . . .	\$ 30,684,550

Sec. 8. 1993 sp.s. c 22 s 138 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Legislative Building preservation (94-1-011)**

<b>Appropriation:</b>	
<del>((St))</del> Cap Bldg Constr Acct . . . . .	\$ 304,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ 304,000

Sec. 9. 1993 sp.s. c 22 s 139 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Temple of Justice preservation (94-1-012)**

**Appropriation:**

<del>((St Bldg Constr Acct</del> .....	<del>\$ 147,000)</del>
Cap Bldg Constr Acct .....	<u>\$ ((277,000</u>
Subtotal Appropriation .....	<u>\$ 424,000)</u>
	<b>424,000</b>
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	<u>\$ 0</u>
TOTAL .....	\$ 424,000

Sec. 10. 1993 sp.s. c 22 s 140 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Northern State Multiservice Center:** For critical life/safety and preservation projects (94-1-014)

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

(1) ~~The department ((shall report to the legislature by November 1, 1994, with options for the disposition of the nonstate-occupied portions of the campus after the reduction or closure of state programs)),~~ in consultation with the local community and the office of financial management, shall develop a plan for the disposal of the property at the Northern State multi-service center and report on the plan to the fiscal committees of the legislature by December 1, 1994. In developing the plan, the department shall solicit proposals to exchange use or ownership of the facility or portions of the facility for environmental cleanup or demolition services or other consideration. The department shall also consider, in consultation with the correctional industries board of directors, the feasibility of using correctional industries for environmental cleanup and demolition.

(2) The appropriation shall not be spent until the office of financial management has approved a facility repair and preservation plan for the campus.

**Appropriation:**

CEP & RI Acct .....	\$ 872,000
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	<u>\$ 0</u>
TOTAL .....	\$ 872,000

Sec. 11. 1993 sp.s. c 22 s 141 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Office Building 2 preservation (94-1-015)**

**Appropriation:**

<del>((St))</del> <u>Cap Bldg Constr Acct</u> .....	\$ 250,000
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Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>2,339,000</u>
TOTAL . . . . .	\$	2,589,000

Sec. 12. 1993 sp.s. c 22 s 143 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Employment Security Building preservation (94-1-017)**

**Appropriation:**

<del>((St))</del> <u>Cap</u> Bldg Constr Acct . . . . .	\$	74,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>575,000</u>
TOTAL . . . . .	\$	649,000

Sec. 13. 1993 sp.s. c 22 s 147 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

**Lacey light industrial park acquisition (94-2-003)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((1,100,000))</del>
		<u>66,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<del>((18,200,000))</del>
		<u>0</u>
TOTAL . . . . .	\$	<del>((19,300,000))</del>
		<u>66,000</u>

Sec. 14. 1993 sp.s. c 22 s 157 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

**State-wide preservation (93-1-008)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((2,518,400))</del>
		<u>2,466,400</u>
Prior Biennia (Expenditures) . . . . .	\$	800,000
Future Biennia (Projected Costs) . . . . .	\$	<u>1,766,000</u>
TOTAL . . . . .	\$	<del>((5,084,400))</del>
		<u>5,032,400</u>

NEW SECTION. Sec. 15. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE MILITARY DEPARTMENT**

**Yakima Armory predesign (94-2-001)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	52,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>7,691,000</u>
TOTAL . . . . .	\$	7,743,000

Sec. 16. 1993 sp.s. c 22 s 162 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON HORSE RACING COMMISSION**

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

(1) The appropriation in this section is provided solely for the benefit and support of thoroughbred horse racing;

(2) ~~((No))~~ Expenditures from this appropriation ~~((may))~~ shall only be made to construct horse race or related facilities ~~((until))~~ after the commission has made a determination that the applicant has the ability to complete the construction of a facility and fund its operation and the applicant has completed all state and federal permitting requirements;

(3) The Washington horse racing commission shall insure that any expenditure from this appropriation will protect the state's long-term interest in the continuation and development of thoroughbred horse racing.

**Appropriation:**

<b>Washington Thoroughbred</b>		
Racing Fund . . . . .	\$	8,200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	8,200,000

**PART 2**

**HUMAN SERVICES**

Sec. 17. 1993 sp.s. c 22 s 202 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Grays Harbor dredging (88-3-006)**

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

(1) The appropriation is provided solely for the state's share of costs for Grays Harbor dredging, dike construction, bridge relocation, and related expenses.

(2) Expenditure of moneys from this appropriation is contingent on the authorization of \$40,000,000 and an initial appropriation of at least \$13,000,000

from the United States army corps of engineers and the authorization of at least \$10,000,000 from the local government for the project. Up to \$3,500,000 of the local government contribution for the first year on the project may be composed of property, easements, rent adjustments, and other expenditures specifically for the purposes of this appropriation if approved by the army corps of engineers. State funds shall be disbursed at a rate not to exceed one dollar for every four dollars of federal funds expended by the army corps of engineers and one dollar from other nonstate sources.

(3) Expenditure of moneys from this appropriation is contingent on a cost-sharing arrangement and the execution of a local cooperation agreement between the port of Grays Harbor and the army corps of engineers pursuant to P.L. 99-662, the federal water resources development act of 1986, whereby the corps of engineers will construct the project as authorized by that federal act.

(4) The port of Grays Harbor shall make the best possible effort to acquire additional project funding from nonstate public grants and/or other governmental sources other than those in subsection (2) of this section. Any money, up to \$10,000,000 provided from such sources other than those in subsection (2) of this section, shall be used to reimburse or replace state building construction account money. In the event the project cost is reduced, any resulting reduction or reimbursement of nonfederal costs realized by the port of Grays Harbor shall be shared proportionally with the state.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((5,688,000))</del>
		<u>5,969,739</u>
Prior Biennia (Expenditures) . . . . .	\$	<del>((4,312,000))</del>
		<u>4,030,261</u>
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	10,000,000

Sec. 18. 1993 sp.s. c 22 s 203 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Housing assistance program (88-5-015)**

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

(1) ~~((The \$2,000,000))~~ \$3,000,000 of the appropriation from the state building construction account and \$3,000,000 of the appropriation from the charitable, educational, penal, and reformatory institutions account is provided to promote development of at least ((+20)) 395 safe and affordable housing units for persons eligible for services from the division of developmental disabilities in the department of social and health services. The housing assistance program shall ((convene an advisory group of developmental disabilities service agencies and family members to plan implementation of)) implement this initiative in

coordination with the plan for increased efficiency in community residential services developed by the division of developmental disabilities in accordance with the 1994 supplemental operating budget.

(2) \$1,000,000 of the appropriation from the charitable, educational, penal, and reformatory institutions account and \$1,000,000 of the appropriation from the state building construction account is provided solely to promote the development of safe and affordable shelters for youth. The housing assistance program shall convene an advisory group to plan and develop guidelines for the implementation of this one time initiative. The housing assistance program may require a match, which may include cash, land value, or donated labor and supplies as a condition of receipt of a grant from this appropriation. The program may establish criteria on the administrative and financial capability of an organization, including the ability to provide for the ongoing operating costs of the shelter, when selecting proposals for a grant from this appropriation. It is the intent of the legislature that this appropriation represents a one-time appropriation for youth shelters.

(3) The department of community development shall conduct a study on the feasibility of providing financial guarantees to housing authorities. The department shall submit its findings to the appropriate legislative committees by December 15, 1993.

~~((3))~~ (4) It is the intent of the legislature that, in addition to the moneys provided under subsection (1) of this section, a portion of the state building construction account appropriation be used to develop safe and affordable housing for the developmentally disabled.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 22,000,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ ~~((34,000,000))~~

38,000,000

CEP & RI Acct . . . . . \$ ~~((2,000,000))~~

4,000,000

Subtotal Appropriation . . . . . \$ ~~((36,000,000))~~

42,000,000

Prior Biennia (Expenditures) . . . . . \$ 35,449,197

Future Biennia (Projected Costs) . . \$ 136,000,000

TOTAL . . . . . \$ ~~((229,449,197))~~

235,449,197

Sec. 19. 1993 sp.s. c 22 s 210 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Emergency Management Building: Minor works (92-2-009)**

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	120,000
<del>((General Fund—Federal . . . . .</del>	<del>\$</del>	<del>69,000</del>
Subtotal Reappropriation . . . . .	\$	(189,000))
Prior Biennia (Expenditures) . . . . .	\$	97,000
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	((286,000))
		<u>217,000</u>

Sec. 20. 1993 sp.s. c 22 s 214 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Resource center for the handicapped:** To acquire and improve the facilities in which the center currently operates (92-5-000)

The reappropriation in this section is subject to the following conditions and limitations: ~~((No expenditure may be made until an equal amount of nonstate moneys dedicated to the purchase of the facility have been raised))~~ Each dollar expended from the reappropriation in this section shall be matched by at least one dollar from nonstate sources expended for the same purpose. The matching money may include lease-purchase payments made by the center prior to the effective date of this section.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,200,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1,200,000

Sec. 21. 1993 sp.s. c 22 s 230 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

**Building for the arts-Phases 1 and 2 (92-5-100) (94-2-021)**

For grants to local performing arts and art museum organizations for facility improvements or additions.

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

(1) Grants are limited to the following projects:

**Phase 1 (92-5-100)**

	Estimated Total	State	State
	Capital Cost	Grant	Share
			@ 15%
Seattle Children's Theatre	\$ 8,000,000	\$ 1,200,000	15%
Admiral Theatre (Bremerton)	\$ 4,261,000	\$ 639,000	15%
Pacific Northwest Ballet	\$ 7,500,000	\$ 1,125,000	15%



Seattle Symphony	\$54,000,000	\$ 8,100,000	15%
Seattle Repertory Theatre (Phase 1)	\$ 4,000,000	\$ 600,000	15%
Intiman Theatre	\$ 800,000	\$ 120,000	15%
Broadway Theatre District (Tacoma)	\$11,800,000	\$ 1,770,000	15%
Allied Arts of Yakima	\$ 500,000	\$ 75,000	15%
Spokane Art School	\$ 454,000	\$ 68,000	15%
Seattle Art Museum	<u>\$ 4,862,500</u>	<u>\$ 729,000</u>	15%
Total	\$96,177,500	\$ 14,426,000	

**Phase 2 (94-2-021)**

	Estimated Total Capital Cost	State Grant	State Share @ 15%
Bainbridge Performing Arts Center	\$ 1,200,000	\$ 180,000	15%
The Children's Museum	\$ 2,850,000	\$ 427,500	15%
Everett Community Theatre	\$12,119,063	\$ 1,817,859	15%
Kirkland Center for the Performing Arts	\$ 2,500,000	\$ 375,000	15%
Makah Cultural and Research Center	\$ 1,600,000	\$ 240,000	15%
Mount Baker Theatre Center	\$ 1,581,000	\$ 237,150	15%
Seattle Group Theatre	\$ 334,751	\$ 50,213	15%
Seattle Opera Association	\$ 985,000	\$ 147,750	15%
Seattle Repertory Theatre (Phase 2)	\$ 4,000,000	\$ 600,000	15%
Tacoma Little Theatre	\$ 1,250,000	\$ 187,500	15%
Valley Museum of Northwest Art	\$ 1,100,000	\$ 165,000	15%
Village Theatre	\$ 6,000,000	\$ 900,000	15%
The Washington Center for the Performing Arts	\$ 400,000	\$ 60,000	15%
Whidbey Island Center for the Arts	<u>\$ 1,200,000</u>	<u>\$ 180,000</u>	15%
Total	<del>\$(38,119,814)</del> <u>37,119,814</u>	\$ 5,567,972	

(2) The state grant may provide no more than fifteen percent of the estimated total capital cost or actual total capital cost of the project, whichever is less. The remaining portions of project capital costs shall be a match from nonstate sources. The match may include cash and land value.

(3) State funding shall be distributed to projects in the order in which matching requirements for specific project phases have been met.

(4) The department shall submit a list of recommended performing arts, museum, and cultural organization projects for funding in the 1995-97 capital budget. The list shall result from a competitive grants program developed by the department providing for:

(a) A maximum state funding amount of \$4 million in the 1995-97 biennium for new projects not previously authorized by the legislature. Maximum state grant awards shall be limited to fifteen percent of the total cost of each qualified project;

(b) Uniform criteria for the selection of projects and awarding of grants. The criteria shall address, at a minimum: The administrative and financial capability of the organization to complete and operate the project; local community support for the project; the contribution the project makes to the diversity of performing arts, museum, and cultural organizations operating in the state; and the geographic distribution of projects; and

(c) A process to provide information describing application procedures to performing arts, museum, and cultural organizations state-wide.

The department may consult with and utilize existing arts organizations to assist with developing the grant criteria and administering the grant program.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 9,475,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 5,961,086

Prior Biennia (Expenditures) . . . . . \$ 1,773,900

Future Biennia (Projected Costs) . . . . . \$ 2,783,986

TOTAL . . . . . \$ 19,993,972

NEW SECTION. **Sec. 22.** A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Eastern Washington Psychiatric Triage Unit**

The appropriation is provided to develop secure beds in Spokane county for persons in need of emergency short-term evaluation, treatment, and stabilization as a result of a psychiatric crisis. The department shall assure that: (1) Funding for the project shall be contingent upon a plan approved by the department of social and health services and upon an agreement by the participating regional support networks to reduce their utilization of eastern state hospital by at least 30 beds early in the 1995-1997 biennium; and (2) the state's investment shall be promptly repaid if the facility is ever converted to a use other than psychiatric care for publicly assisted individuals.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1,000,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	1,000,000

NEW SECTION. Sec. 23. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Western State Hospital:** To improve the security of the mentally ill offender unit

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	400,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	400,000

Sec. 24. 1993 sp.s. c 22 s 252 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Maple Lane School:** Construct a 64-bed, level one security facility (92-2-225)

The appropriations in this section shall not be expended until the capital project review requirements of section 1015, chapter 22, Laws of 1993 sp.s. have been met.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	6,215,800
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**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>785,600</u>
Prior Biennia (Expenditures) . . . . .	\$	500,000
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<del>((6,715,800))</del> <u>7,501,400</u>

Sec. 25. 1993 sp.s. c 22 s 279 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Naselle Youth Camp:** Eagle Lodge Replacement (94-1-204)

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	2,100,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0

TOTAL . . . . . \$ 2,100,000

NEW SECTION. Sec. 26. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Naselle Youth Camp: Eagle Lodge Rehabilitation (94-1-210)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	282,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	282,000

Sec. 27. 1993 sp.s. c 22 s 280 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Green Hill School Repairs (94-1-501)**

The appropriation in this section is provided for minor repairs, including but not limited to fire and safety code repairs, and kitchen roof repair or replacement.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	240,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	240,000

NEW SECTION. Sec. 28. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES**

**Maple Lane School: Fire Safety and Sewer Improvements (94-1-001)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	470,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	470,000

Sec. 29. 1993 sp.s. c 22 s 282 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

**Laboratory expansion, phase 2 (92-2-001)**

The appropriation in this section shall not be expended until the capital project review requirements of section 1015 of this act have been met.

**Reappropriation:**

St Bldg Constr Acct . . . . . \$ 780,000

**Appropriation:**

St Bldg Constr Acct . . . . . \$ ((12,583,468))

112,517

Prior Biennia (Expenditures) . . . . . \$ 420,000

Future Biennia (Projected Costs) . . \$ 0

TOTAL . . . . . \$ ((13,783,468))

1,312,517

NEW SECTION. Sec. 30. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

**Ground water monitoring pilot project: To test public drinking water systems for organic and inorganic chemicals**

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

(1) The appropriation in this section is provided solely to implement Substitute House Bill No. 2616. If Substitute House Bill No. 2616 is not enacted by June 30, 1994, the appropriation in this section shall lapse.

(2) The local toxics control account shall be reimbursed by June 30, 1995, by fees sufficient to cover the cost of the program in accordance with the provisions of Substitute House Bill No. 2616 and RCW 43.20B.020.

**Appropriation:**

Local Toxics Control Acct . . . . . \$ 2,060,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 2,060,000

NEW SECTION. Sec. 31. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil Heating System Upgrade (94-1-300)**

**Appropriation:**

St Bldg Constr Acct . . . . . \$ 700,000

Prior Biennia (Expenditures) . . . . . \$ 0

Future Biennia (Projected Costs) . . . . . \$ 0

TOTAL . . . . . \$ 700,000

NEW SECTION. Sec. 32. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Roosevelt Hall Sprinkler Installation (94-1-301)**

**Appropriation:**

CEP & RI Acct . . . . .	\$	70,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	70,000

NEW SECTION. Sec. 33. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Retsil Laundry Room Improvements (94-1-302)**

**Appropriation:**

CEP & RI Acct . . . . .	\$	90,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	90,000

Sec. 34. 1993 sp.s. c 22 s 285 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Complete facility improvements on building nine at ((Soldiers'))  
Veterans' Home (90-1-009)**

**Reappropriation:**

CEP & RI Acct . . . . .	\$	150,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	150,000

Sec. 35. 1993 sp.s. c 22 s 286 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

**Minor works at ((~~veterans~~<sup>2</sup>-homes)) Soldiers' Home (92-2-008)**

**Reappropriation:**

CEP & RI Acct . . . . .	\$	30,000
Prior Biennia (Expenditures) . . . . .	\$	0

Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	30,000

Sec. 36. 1993 sp.s. c 22 s 290 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

To repair mechanical, electrical, and heating, ventilation, and air conditioning systems at Soldiers' Home (94-1-100)

**Appropriation:**

((~~CEP & RI Acct~~))

<u>St Bldg Constr Acct</u> . . . . .	\$	837,057
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>1,821,835</u>
TOTAL . . . . .	\$	2,658,892

Sec. 37. 1993 sp.s. c 22 s 294 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

To repair mechanical, electrical and heating, ventilation, and air conditioning systems at Veterans' Home (94-1-200)

**Appropriation:**

((~~CEP & RI Acct~~))

<u>St Bldg Constr Acct</u> . . . . .	\$	1,246,611
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>726,722</u>
TOTAL . . . . .	\$	1,973,333

Sec. 38. 1993 sp.s. c 22 s 299 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

To make regulatory and code compliance improvements for the preservation of correctional facilities (94-1-001)

Up to \$230,000 may be used for improvements to Indian Ridge correctional camp in preparation for transfer of the facility to the division of juvenile rehabilitation. After the transfer of the facility, the department of natural resources shall continue to ensure that substantially the same fire protection services are provided to the region at least through the 1994 fire season.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	4,390,000
CEP & RI Acct . . . . .	\$	<u>300,000</u>
Subtotal Reappropriation . . . . .	\$	4,690,000

**Appropriation:**

St Bldg Constr Acct .....	\$ 10,736,573
CEP & RI Acct .....	\$ <u>1,225,953</u>
Subtotal Appropriation .....	\$ 11,962,526
Prior Biennia (Expenditures) .....	\$ 25,863,968
Future Biennia (Projected Costs) .....	\$ <u>61,726,068</u>
TOTAL .....	\$ 104,242,562

Sec. 39. 1993 sp.s. c 22 s 300 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

To make small repairs and improvements to correctional facilities (94-1-002)

~~((The reappropriation in this section is subject to the conditions and limitations of section 1017(2)(b) of this act.))~~ If the projects funded from the reappropriation in this section are not substantially complete by December 1, 1994, the reappropriation shall lapse.

**Reappropriation:**

St Bldg Constr Acct .....	\$ 10,650,000
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**Appropriation:**

St Bldg Constr Acct .....	\$ 9,697,577
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ <u>44,652,002</u>
TOTAL .....	\$ 64,999,579

Sec. 40. 1993 sp.s. c 22 s 302 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

To repair internal building systems for the preservation of correctional facilities (94-1-004)

At least \$63,000 from the state building construction account appropriation shall be used for improvements to the Indian Ridge correctional camp in preparation for transfer of the facility to the division of juvenile rehabilitation. To ensure the efficient and timely completion of these improvements, the department shall use correctional industries and inmate labor to the greatest extent possible.

**Appropriation:**

St Bldg Constr Acct .....	\$ 8,779,445
CEP & RI Acct .....	\$ <u>431,568</u>
Subtotal Appropriation .....	\$ 9,211,013
Prior Biennia (Expenditures) .....	\$ 0
Future Biennia (Projected Costs) .....	\$ <u>65,561,403</u>
TOTAL .....	\$ 74,772,416



Sec. 41. 1993 sp.s. c 22 s 303 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

~~((Underground storage tanks))~~ Asbestos allocation (90-1-001)

~~((That portion of the appropriation related to underground storage tanks may be expended only after compliance with section 107 of this act.))~~ If the projects funded from the reappropriation in this section are not substantially complete by December 1, 1994, the reappropriation shall lapse.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	256,500
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	256,500

Sec. 42. 1993 sp.s. c 22 s 306 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**For state-wide repairs and improvements (94-2-002)**

~~((The reappropriation in this section is subject to the conditions and limitations of section 1017(2)(b) of this act.))~~ If the projects funded from the reappropriation in this section are not substantially complete by March 1, 1995, the reappropriation shall lapse.

Of the appropriation in this section:

(1) \$753,000 is provided for correctional industry storage and yard projects at the Washington State Reformatory; and

(2) \$727,000 is provided for conversion of program space at Cedar Creek Corrections Center, completion of an intake-discharge unit and motor pool at the Clallam Bay Corrections Center, and conversion of the Eleanor Chase House into a work-release facility.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	9,742,000
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**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((17,767,557))</del>
		<u>16,505,489</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	110,387,730
TOTAL . . . . .	\$	<del>((137,897,287))</del>
		<u>136,635,219</u>

NEW SECTION. Sec. 43. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF CORRECTIONS**

**Predesign Yakima Prerelease Facility and Implement Sewer Improvements (94-2-017)**

**Appropriation:**

St Bldg Constr Acct .....	\$	240,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	240,000

**PART 3**

**NATURAL RESOURCES**

**Sec. 44.** 1993 sp.s. c 22 s 401 (uncodified) is amended to read as follows:

**FOR THE WASHINGTON STATE ENERGY OFFICE**

**Energy partnerships:** Planning, development, and contract review of cogeneration projects, and development and financing of conservation capital projects, for schools and state agencies (92-1-003) (92-1-004) (94-1-002)

~~((The reappropriations in this section are subject to the following conditions and limitations: \$2,000,000 of the energy efficiency construction account reappropriation is provided solely for financing conservation capital projects for schools under chapter 39.35C RCW.))~~

**Reappropriation:**

St Bldg Constr Acct .....	\$	358,000
Energy Eff Constr Acct .....	\$	((3,000,000))
		<u>1,000,000</u>
Subtotal ((Appropriation))		
<u>Reappropriation</u> .....	\$	((3,358,000))
		<u>1,358,000</u>
Prior Biennia (Expenditures) .....	\$	((620,424))
		<u>0</u>
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	((3,978,424))
		<u>1,358,000</u>

**Sec. 45.** 1993 sp.s. c 22 s 403 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Referendum 38 water supply facilities (74-2-006)**

\$2,500,000 of the state and local improvements revolving account is provided solely for funding the state's cost share in the water conservation demonstration project - Yakima river reregulating reservoir.

**Reappropriation:**

LIRA, Water Sup Fac . . . . .	\$ 11,300,000
Prior Biennia (Expenditures) . . . . .	\$ 57,081,346
Future Biennia (Projected Costs) . . . . .	\$ 13,824,661
TOTAL . . . . .	\$ 82,206,007

**Sec. 46.** 1993 sp.s. c 22 s 406 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF ECOLOGY**

**Centennial Clean Water Fund: Water Quality Account (86-2-007)**

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

(1) In awarding grants, extending grant payments, or making loans from these appropriations for facilities that discharge directly into marine waters, the department shall:

(a) Give first priority to secondary wastewater treatment facilities that are mandated by both federal and state law;

(b) Give second priority to projects that reduce combined sewer overflows; and

(c) Encourage economies that are derived from any simultaneous projects that achieve the purposes of both subsections (1) and (2) of this section.

(2) The following limitations shall apply to the department's total distribution of funds appropriated under this section:

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

(b) Not more than twenty percent for water pollution control activities that prevent or mitigate pollution of underground waters and facilities that protect federally designated sole source aquifers with at least two-thirds for the Spokane-Rathdrum Prairie aquifer;

(c) Not more than ten percent for water pollution control activities that protect freshwater lakes and rivers including but not limited to Lake Chelan and the Yakima and Columbia rivers;

(d) Not more than ten percent for activities that control nonpoint source water pollution;

(e) Ten percent and such sums as may be remaining from the categories specified in (a) through (d) of this subsection for water pollution control activities or facilities as determined by the department. However, for fiscal year 1995, the department shall give priority consideration under this subsection (2)(e) to those eligible projects which assist local governments in establishing on-site septic system technical assistance programs to inform owners of the benefits of proper operation and maintenance of such systems. No part of such sums provided for septic system technical assistance may be used by a local government to support inspection of systems or for the enforcement of regulatory requirements regarding on-site septic systems.

(3) In determining compliance schedules for the greatest reasonable reduction of combined sewer overflows, the department shall consider the amount of grant or loan moneys available to assist local governments in the planning, design, acquisition, construction, and improvement of combined sewer overflow facilities.

(4) The department shall develop and implement a strategy for increasing the percentage of loans from the centennial clean water program.

(5) No later than December 1, 1993, the department of ecology shall provide to the appropriate committees of the legislature an implementation plan for making administrative efficiencies and service improvements to the grant and loan programs currently administered by the department. The plan shall include but not be limited to actions which: (a) Simplify application and funding cycle procedures; (b) eliminate duplicative oversight functions; (c) consolidate planning requirements as appropriate to be consistent with the growth management act; (d) reduce state and local administrative costs; (e) encourage demand management strategies; and (f) develop watershed or regional mechanisms for solving as completely as possible a community's environmental needs through coordinated cross program prioritization and administration of funding programs. The plan shall identify actions which the department has taken to implement administrative efficiencies and service improvements to the grant and loan programs. At the same time the implementation plan is submitted to the legislature, the department shall provide recommendations for any statutory changes that are needed to implement the plan. Recommendations may include a new method for distributing water quality account money after the current statutory allocation formula expires.

<b>Reappropriation:</b>	
Water Quality Acct . . . . .	\$ ((87,820,000))
	<u>74,149,085</u>
<b>Appropriation:</b>	
Water Quality Acct . . . . .	\$ 63,899,000
Prior Biennia (Expenditures) . . . . .	\$ 183,982,825
Future Biennia (Projected Costs) . . . . .	\$ <u>305,676,000</u>
TOTAL . . . . .	\$ ((641,377,825))
	<u>627,706,910</u>

Sec. 47. 1993 sp.s. c 22 s 408 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

**Water pollution control facility loans (90-2-002)**

<b>Reappropriation:</b>	
Water Pollution Cont Rev	
Fund—State . . . . .	\$ ((13,044,335))

		<u>13,302,561</u>
<b>Water Pollution Cont Rev</b>		
<b>Fund—Federal</b> . . . . .	\$	((65,206,025))
		<u>64,947,799</u>
Subtotal Reappropriation . . . . .	\$	78,250,360
<b>Appropriation:</b>		
<b>Water Pollution Cont Rev Fund—</b>		
<b>State</b> . . . . .	\$	((19,961,601))
		<u>20,239,532</u>
<b>Water Pollution Cont—Federal</b> . . . . .	\$	((78,689,866))
		<u>69,902,955</u>
Subtotal Appropriation . . . . .	\$	((98,651,467))
		<u>90,142,487</u>
Prior Biennia (Expenditures) . . . . .	\$	54,871,279
Future Biennia (Projected Costs) . . . . .	\$	<u>283,370,816</u>
TOTAL . . . . .	\$	((515,143,924))
		<u>506,634,942</u>

Sec. 48. 1993 sp.s. c 22 s 423 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Westhaven: Comfort station and parking construction (89-2-119)**

The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.

**Reappropriation:**

<b>St Bldg Constr Acct</b> . . . . .	\$	((311,349))
		<u>45,116</u>
Prior Biennia (Expenditures) . . . . .	\$	((85,448))
		<u>281,681</u>
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	((396,797))
		<u>326,797</u>

Sec. 49. 1993 sp.s. c 22 s 427 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Fort Worden: Rebuild boat launch (89-3-135)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the projects funded from the reappropriation in this section are not substantially complete by November 1, 1994, the reappropriation shall lapse.

**Reappropriation:**

<b>ORA—State</b> . . . . .	\$	275,219
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Prior Biennia (Expenditures) . . . . .	\$	13,639
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	288,858

Sec. 50. 1993 sp.s. c 22 s 428 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Larrabee development (89-5-002)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the projects funded from the reappropriations in this section are not substantially complete by October 1, 1994, the reappropriations shall lapse.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	275,000
ORA— <del>(State)</del> <u>Federal</u> . . . . .	\$	<u>140,540</u>
Subtotal Reappropriation . . . . .	\$	415,540
Prior Biennia (Expenditures) . . . . .	\$	65,350
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	480,890

Sec. 51. 1993 sp.s. c 22 s 430 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Fort Canby initial development (89-5-115)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the reappropriation in this section is not expended by June 30, 1995, it shall lapse.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	232,813
Prior Biennia (Expenditures) . . . . .	\$	26,774
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	259,587

Sec. 52. 1993 sp.s. c 22 s 431 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

**Ocean beach access (89-5-120)**

**Reappropriation:**

<del>ORA—State</del> . . . . .	<del>\$</del>	<del>286,195))</del>
St Bldg Constr Acct . . . . .	\$	250,000
	<del>(</del>	
Subtotal Reappropriation . . . . .	<del>\$</del>	<del>536,195))</del>
Prior Biennia (Expenditures) . . . . .	\$	27,191

Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<u>((563,386))</u> <u>277,191</u>

Sec. 53. 1993 sp.s. c 22 s 432 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**  
**Spokane Centennial Trail (89-5-166)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the projects funded from the reappropriation in this section are not substantially complete by October 1, 1994, the reappropriation shall lapse.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	<b>223,507</b>
Prior Biennia (Expenditures) . . . . .	\$	3,456
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<u>226,963</u>

Sec. 54. 1993 sp.s. c 22 s 460 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**  
**Timberland purchases and common school purchases (94-2-001)**

This reappropriation is provided solely and expressly to reimburse the department of natural resources for administrative expenses incurred for the replacement of timberland and common school lands.

**Reappropriation:**

<del>((Trust Land Purchase Acct))</del>		
<u>St Bldg Constr Acct</u> . . . . .	\$	<b>750,000</b>
Prior Biennia (Expenditures) . . . . .	\$	49,250,000
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<u>50,000,000</u>

NEW SECTION. Sec. 55. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**  
**Iron Horse trail acquisition (95-2-000)**

This appropriation is provided as matching funds for a grant from the federal intermodal [intermodal] surface transportation efficiency act.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<b>70,000</b>
Prior Biennia (Expenditures) . . . . .	\$	0

Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	70,000

Sec. 56. 1993 sp.s. c 22 s 459 (uncodified) is amended to read as follows:

**FOR SPECIAL LAND PURCHASES AND COMMON SCHOOL CONSTRUCTION**

**Special land purchases and common school construction (94-2-000)**

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

(1)(a) ~~\$(27,424,000)~~ 12,424,000 of the total appropriation is provided to the state parks and recreation commission. These funds and \$15,000,000 of the state general fund appropriated to the state parks and recreation commission ("commission") in Substitute Senate Bill No. 6244 are provided ~~((to the state parks and recreation commission ("commission")))~~ solely to acquire the following trust lands that have been identified by the department of natural resources and the commission as appropriate for state park use:

- (i) Squak mountain, King county;
- (ii) Miller peninsula, Clallam county;
- (iii) Hoko river, Clallam county;
- (iv) Cascade island, Skagit county;
- (v) ~~((Skykomish river, Snohomish county;~~
- ~~((vi)))~~ Leadbetter point, Pacific county;
- ~~((vii)))~~ (vi) Square lake, Kitsap county;
- ~~((viii)))~~ (vii) Iron Horse/Ragner, King county(~~(~~
- ~~((ix) Robe gorge, Snohomish county)).~~

(b) Acquisitions authorized in (a) of this subsection shall be made in priority order, as determined by the commission in consultation with the department of natural resources.

(c) The commission shall provide a \$250,000 matching grant to a local government to acquire property including the Robe gorge tunnel trail for use as a park if such local government agrees to assume all obligation to maintain the above referenced property as a park. This authority is provided in lieu of acquisition of the property listed in section 459 (1)(a)(ix), chapter 22, Laws of 1993 sp. sess.

(d) \$4,975,000 of the total appropriation is provided to the department of wildlife solely to acquire the following trust lands that have been identified by the department of natural resources and the department of wildlife as appropriate for wildlife habitat:

- (i) Cabin creek, Kittitas county;
- (ii) Riffe lake, Lewis county;
- (iii) Divide ridge, Yakima county.

~~((e)))~~ (e) \$17,953,000 of the total appropriation is provided to the department of natural resources solely to acquire the following prioritized list of



trust lands appropriate for natural area preserve, natural resource conservation area, and/or recreation use:

(i) Mount Pilchuck, Snohomish county;

(ii) Mt. Si, King county.

(2) Lands acquired under this section shall be transferred in fee simple. Timber on these lands shall be commercially unsuitable for harvest due to economic considerations, good forest practices, or other interests of the state.

The state parks and recreation commission, the state wildlife commission, and the commissioner of public lands shall consider operational costs and impacts of acquiring the lands listed in subsection (1) of this section. Efforts shall be made to minimize the operational impacts through public-private partnerships, interlocal agreements or other mechanisms while carrying out the objectives of this section, provided that the aggregate ratio of revenues to the common school construction fund is maintained. Application to the board of natural resources for transfer of these properties from trustland status shall be made based on these considerations.

On December 31, 1994, the state treasurer shall transfer remaining unencumbered funds from this appropriation to the common school construction fund and the appropriation in this section shall be reduced by an equivalent amount.

(3) Property transferred under this section shall be appraised and transferred at fair market value. The proceeds from the value of the timber transferred shall be deposited by the department of natural resources in the same manner as timber revenues from other common school trust lands. No deduction may be made for the resource management cost account under RCW 79.64.040. The proceeds from the value of the land transferred shall be used by the department of natural resources to acquire real property of equal value to be managed as common school trust land.

(4) The proceeds from the value of the land transferred under this section shall be deposited in the park land trust revolving account to be utilized by the department of natural resources for the exclusive purpose of acquiring replacement common school trust land.

(5) The department of natural resources shall attempt to maintain an aggregate ratio of 85:15 timber-to-land value in these transactions.

(6) Intergrant exchanges between common school and noncommon school trust lands of equal value may occur if the noncommon school trust land meets the criteria established by the commission and the departments of natural resources and wildlife for selection of sites and if the exchange is in the interest of both trusts.

(7) Lands and timber purchased under subsection (1)(d) of this section shall be managed under chapter 79.68, 79.70, or 79.71 RCW as determined by the department of natural resources.

(8) The state parks and recreation commission shall identify appropriate sites for a new marine state park in south Puget Sound as an alternative to the

Squaxin Island state park or may enter into agreements which will provide permanent public access to Squaxin Island state park. Moneys provided under subsection (1)(a) of this section may be expended for these purposes pursuant to subsections (2) through (6) of this section.

(9) The board of natural resources shall develop a process for identifying trust lands suitable for transfer from trust status to other state or local public ownership for the benefit of the common schools.

<b>Appropriation:</b>	
St Bldg Constr Acct . . . . .	\$ ((45,798,000))
	<u>30,798,000</u>
Aquatic Lands Acct . . . . .	\$ 4,554,000
Subtotal Appropriation . . . . .	\$ ((50,352,000))
	<u>35,352,000</u>
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ ((50,352,000))
	<u>35,352,000</u>

Sec. 57. 1993 sp.s. c 22 s 462 (uncodified) is amended to read as follows:  
**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Washington wildlife and recreation program (90-5-002)

<b>Reappropriation:</b>	
ORA—State . . . . .	\$ ((1,265,227))
	<u>2,286,674</u>
Habitat Conservation Acct . . . . .	\$ ((1,426,962))
	<u>5,456,123</u>
Subtotal Reappropriation . . . . .	\$ ((2,692,189))
	<u>7,742,797</u>

<b>Appropriation:</b>	
<u>Habitat Conservation Acct . . . . .</u>	<u>\$ 2,345,553</u>
Prior Biennia (Expenditures) . . . . .	\$ ((32,425,345))
	<u>27,374,737</u>
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ ((35,117,534))
	<u>37,463,087</u>

Sec. 58. 1993 sp.s. c 22 s 463 (uncodified) is amended to read as follows:  
**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Grants to public agencies (92-2-001)**

**Reappropriation:**

St Bldg Constr Acct .....	\$	<u>((6,048,754))</u>
		<u>7,083,959</u>
ORA—Federal .....	\$	<u>((700,000))</u>
		<u>1,643,644</u>
ORA—State .....	\$	<u>((3,715,970))</u>
		<u>4,389,456</u>
Firearms Range Acct .....	\$	<u>136,892</u>
Subtotal Reappropriation ....	\$	<u>((10,601,616))</u>
		<u>13,253,951</u>
Prior Biennia (Expenditures) .....	\$	<u>((5,979,136))</u>
		<u>3,326,801</u>
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	<u>16,580,752</u>

Sec. 59. 1993 sp.s. c 22 s 466 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Grants to public agencies (94-3-001) (94-3-005)**

**Appropriation:**

ORA—Federal .....	\$	<u>((1,000,000))</u>
		<u>984,000</u>
ORA—State .....	\$	<u>5,653,614</u>
Subtotal Appropriation .....	\$	<u>((6,653,614))</u>
		<u>6,637,614</u>
Prior Biennia (Expenditures) .....	\$	<u>0</u>
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	<u>((6,653,614))</u>
		<u>6,637,614</u>

NEW SECTION. Sec. 60. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Grants to public agencies: Restore lapsed appropriation (94-3-006)**

**Appropriation:**

St Bldg Constr Acct .....	\$	<u>443,251</u>
ORA—State .....	\$	<u>2,296,274</u>
Subtotal Appropriation .....	\$	<u>2,739,525</u>

Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	2,739,525

Sec. 61. 1993 sp.s. c 22 s 468 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**NOVA projects (94-3-004)**

This appropriation is in addition to the funding distribution under section 469, chapter 22, Laws of 1993 sp. sess. and shall be distributed as follows: \$3,297,600 to the ORV recreation facilities program; \$1,199,200 to the ORV education, information, and law enforcement programs; and \$499,200 to the nonhighway road recreation facilities.

**Appropriation:**

<b>ORA—State . . . . .</b>	<b>\$</b>	<b>4,996,000</b>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	25,500,000
TOTAL . . . . .	\$	30,496,000

Sec. 62. 1993 sp.s. c 22 s 469 (uncodified) is amended to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Washington wildlife and recreation program (94-5-002)**

(1) \$32,500,000 of the state building construction account appropriation in this section shall be deposited into and is hereby appropriated from the habitat conservation account for the Washington wildlife and recreation program as established under chapter 43.98A RCW. \$28,025,800 of the state building construction account appropriation and all of the aquatic lands enhancement account appropriation shall be deposited into and is hereby appropriated from the state outdoor recreation account for the Washington wildlife and recreation program as established under chapter 43.98A RCW.

(2) \$1,000,000 of the outdoor recreation account appropriation shall be expended for nonhighway projects (~~and shall be included in the calculation of expenditure limitations in RCW 46.09.170(1)(d)(iii))~~).

(3) \$1,000,000 of the outdoor recreation account appropriation shall be expended for marine recreation and water access projects and shall be part of the distribution of RCW 43.99.080(2).

(4) \$2,028,000 of the outdoor recreation account appropriation shall be expended for marine recreation and water access projects and shall be part of the distribution of RCW 43.99.080(1).

(5) All land acquired by a state agency with moneys from this appropriation shall comply with class A, B, and C weed control provisions of chapter 17.10 RCW.

(6) The following projects are deleted from the approved list of projects established under chapter 43.98A RCW: ~~((a))~~ That portion of mule deer winter range (project number 92-638A) other than mule deer migration corridors in the Methow Valley.

(7) The legislature hereby approves, without exception, the governor's approved project list for fiscal year 1995 submitted to the legislature in January 1994.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$ 60,525,800
ORA—State . . . . .	\$ 4,028,200
Aquatic Lands Acct . . . . .	\$ 446,000
Subtotal Appropriation . . . . .	\$ 65,000,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 200,000,000
TOTAL . . . . .	\$ 265,000,000

NEW SECTION. **Sec. 63.** A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

**Mount Spokane trail development (95-2-006)**

**Appropriation:**

ORA—Federal . . . . .	\$ 125,000
Prior Biennia (Expenditures) . . . . .	\$ 0
Future Biennia (Projected Costs) . . . . .	\$ 0
TOTAL . . . . .	\$ 125,000

**Sec. 64.** 1993 sp.s. c 22 s 474 (uncodified) is amended to read as follows:

**FOR THE STATE CONSERVATION COMMISSION**

**Water quality account projects: Provides grants to local conservation districts for resource conservation projects (90-2-001)**

The appropriations in this section are subject to the following conditions and limitations: \$3,000,000 is provided solely for technical assistance and grants for dairy waste management and facility planning and implementation.

**Reappropriation:**

Water Quality Acct—State . . . . .	\$ ((348,652))
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659,670

**Appropriation:**

Water Quality Acct—State . . . . .	\$	5,224,000
Prior Biennia (Expenditures) . . . . .	\$	((1,791,348))
		<u>1,480,330</u>
Future Biennia (Projected Costs) . . . . .	\$	9,120,000
TOTAL . . . . .	\$	((13,484,000))
		<u>16,484,000</u>

Sec. 65. 1993 sp.s. c 22 s 475 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

**Towhead Island public access renovation (86-3-028)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the reappropriation in this section is not expended by June 30, 1995, it shall lapse.

**Reappropriation:**

ORA—State . . . . .	\$	190,000
Prior Biennia (Expenditures) . . . . .	\$	21,000
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	211,000

Sec. 66. 1993 sp.s. c 22 s 476 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

**Shorefishing access (88-5-018)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the reappropriation in this section is not expended by June 30, 1995, it shall lapse.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	400,000
Prior Biennia (Expenditures) . . . . .	\$	671,946
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	1,071,946

Sec. 67. 1993 sp.s. c 22 s 477 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

**Ilwaco boat access expansion (90-2-023)**

~~((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.))~~ If the reappropriation in this section is not expended by June 30, 1995, it shall lapse.

**Reappropriation:**

ORA—State . . . . .	\$	300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	300,000

NEW SECTION. Sec. 68. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE DEPARTMENT OF FISHERIES**

**Puget Sound recreational salmon and marine fish enhancement program: Acquire sites for and construct two rearing ponds (94-2-015)**

**Appropriation:**

Recreation Fish Enhancement—State . .	\$	300,000
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	300,000

Sec. 69. 1993 sp.s. c 22 s 507 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

**Fishing access area redevelopment (94-1-003)**

((The appropriation in this section is subject to the conditions and limitations of section 1017(2) (a) and (b) of this act.)) If the reappropriation in this section is not expended by June 30, 1995, it shall lapse.

**Reappropriation:**

Wildlife Acct—Federal . . . . .	\$	107,000
ORA—State . . . . .	\$	959,000
Subtotal Reappropriation . . . . .	\$	1,066,000

**Appropriation:**

ORA—State . . . . .	\$	<del>((887,000))</del>
		<u>126,000</u>
Wildlife Acct—Federal . . . . .	\$	500,000
Subtotal Appropriation . . . . .	\$	<del>((1,387,000))</del>
		<u>626,000</u>
Prior Biennia (Expenditures) . . . . .	\$	1,456,000
Future Biennia (Projected Costs) . . . . .	\$	7,333,400
TOTAL . . . . .	\$	<del>((10,176,400))</del>
		<u>10,481,400</u>

Sec. 70. 1993 sp.s. c 22 s 518 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

**Grandy Creek hatchery (92-5-024)**

Expenditure of the appropriation in this section is contingent on an in-kind match of dollars or services from nonstate sources equal to at least \$200,000. No additional funds may be spent after the effective date of this act until the department has completed the study required under section 508, chapter 22, Laws of 1993 sp. sess. Furthermore, expenditures made from this appropriation shall be for a facility which is operated in conformance with the department's genetic stocking model, wild salmonid policy, and steelhead management plan.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	4,500,000
Prior Biennia (Expenditures) . . . . .	\$	184,166
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	4,684,166

Sec. 71. 1993 sp.s. c 22 s 519 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

~~((Gloyd Seeps))~~ Warm Water Fish ~~((Hatchery))~~ Facility: For the purchase and development of ~~((the))~~ property in eastern or central Washington by the Department of Wildlife

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

(1) The department shall give highest priority to purchasing the Gloyd Seeps fish hatchery. However, if it is not economically feasible to do so, the department may purchase and develop alternative property in the eastern or central Washington area;

(2) The appropriation from the wildlife-state account is provided solely for a joint venture for a warm water fish facility on the Hanford Reservation; and

(3) The appropriations in this section shall not be expended for the purchase of property until the Department of Wildlife has made a determination that:

~~((1))~~ (a) The water rights to the property being transferred to the Department of Wildlife, as part of the purchase agreement, are sufficient to operate the hatchery; and

~~((2))~~ (b) The operation of a warm water fish hatchery on the property is feasible.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<del>((1,870,000))</del>
		<u>1,262,000</u>
<u>Wildlife Acct—State</u> . . . . .	\$	<u>38,000</u>
<u>Subtotal Appropriation</u> . . . . .	\$	<u>1,300,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<del>((1,870,000))</del>
		<u>1,300,000</u>



Sec. 72. 1993 sp.s. c 22 s 603 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ((TRANSPORTATION)) WILDLIFE**

**Funds to continue Mt. St. Helens recovery program (87-1-001)**

**((Reappropriation)) Appropriation:**

St Bldg Constr Acct . . . . .	\$	370,000
Prior Biennia (Expenditures) . . . . .	\$	5,579,161
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	5,949,161

Sec. 73. 1993 sp.s. c 22 s 515 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

**Regional office construction (94-2-010)**

**Appropriation:**

Wildlife Acct—State . . . . .	\$	<del>((138,000))</del>
		<u>100,000</u>
<u>St Bldg Constr Acct</u> . . . . .	<u>\$</u>	<u>38,000</u>
Subtotal Appropriation . . . . .	<u>\$</u>	<u>138,000</u>
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	138,000

**PART 4**

**EDUCATION**

Sec. 74. 1993 sp.s. c 22 s 708 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD OF EDUCATION**

**Common schools: Design and construction (94-2-001)**

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

(1) Not more than \$106,000,000 ((of)) from this appropriation and the appropriation for common school construction in Substitute Senate Bill No. 6244 combined may be obligated in fiscal year 1994 for school district project design and construction.

(2) A maximum of \$1,250,000 may be expended for direct costs of state administration of school construction funding.

(3) A maximum of \$630,000 may be expended for three full-time equivalent field staff with construction or architectural experience to assist in evaluation of project requests and reviewing information reported by school districts and certifying the building condition data submitted by school districts.

(4) A maximum of \$75,000 is provided solely for development of an automated state inventory and facility condition management database. This database shall utilize information obtained through implementation of the new priority system developed in the 1991-93 biennium and periodic updating.

(5) Projects approved for state assistance by the state board after the effective date of this section, in which new construction will be in lieu of modernization of an existing instructional facility or space, shall receive state assistance only if the district certifies that the existing facility or space will not be used for instructional purposes, and that the facility or space will be ineligible for any future state financial assistance. Further, if the district does return the facility or space to instructional purposes, the district shall become ineligible for state construction financial assistance for a period of at least five years as determined by the state board of education. The state board shall adopt regulations to implement this subsection.

**Appropriation:**

Common School Constr Fund . . .	\$	((233,179,000))	
			<u>180,879,000</u>
St Bldg Constr Acct . . . . .	\$	((4,821,000))	
			<u>41,821,000</u>
Subtotal Appropriation . . . . .	\$	((238,000,000))	
			<u>222,700,000</u>
Prior Biennia (Expenditures) . . . . .	\$		0
Future Biennia (Projected Costs) . .	\$		<u>0</u>
TOTAL . . . . .	\$	((238,000,000))	
			<u>222,700,000</u>

Sec. 75. 1993 sp.s. c 22 s 731 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Parrington Hall exterior and seismic repair (92-3-018)**

The appropriation in this section shall not be expended until the capital project review requirements of section 1015, chapter 22, Laws of 1993 sp. sess. have been met.

**Reappropriation:**

UW Bldg Acct . . . . .	\$	((1,675,000))	
			<u>1,646,126</u>

**Appropriation:**

UW Bldg Acct . . . . .	\$		<u>3,513,499</u>
Prior Biennia (Expenditures) . . . . .	\$	((80,000))	
			<u>112,875</u>
Future Biennia (Projected Costs) . .	\$		<u>0</u>
TOTAL . . . . .	\$	((1,759,000))	

5,272,500

Sec. 76. 1993 sp.s. c 22 s 733 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Denny Hall exterior repair (92-3-020)**

**Reappropriation:**

UW Bldg Acct .....	\$	((1,550,000))
		<u>2,868</u>
Prior Biennia (Expenditures) .....	\$	835,508
Future Biennia (Projected Costs) ..	\$	<u>0</u>
TOTAL .....	\$	((2,385,508))
		<u>838,376</u>

Sec. 77. 1993 sp.s. c 22 s 745 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**~~((Branch campuses (94-2-500)))~~ Tacoma branch campus (94-2-500)**

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

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.

(2) The appropriation in this section shall not be expended until the capital project review requirements of section 1015 of this act and the allotment requirements of section 1016 of this act have been met.

~~((3) Of the appropriation in this section, \$23,000,000 is provided for the Bothell branch campus. The remaining \$30,983,320 is provided for the Tacoma branch campus.))~~

**Reappropriation:**

St Bldg Constr Acct .....	\$	8,741,680
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**Appropriation:**

St Bldg Constr Acct .....	\$	((53,983,320))
		<u>30,983,320</u>
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) ..	\$	((106,000,000))
		<u>0</u>
TOTAL .....	\$	((168,725,000))
		<u>39,725,000</u>

NEW SECTION. Sec. 78. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

**Bothell branch campus**

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

(1) No money from this appropriation may be expended that would be inconsistent with the recommendations of the higher education coordinating board.

(2) The purpose of this appropriation is to provide expenditure authority for previously incurred expenses.

**Appropriation:**

UW Bldg Acct . . . . .	\$	2,290,000
Prior Biennia (Expenditures) . . . . .	\$	4,463,419
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	6,753,419

Sec. 79. 1993 sp.s. c 22 s 757 (uncodified) is amended to read as follows:

**FOR WASHINGTON STATE UNIVERSITY**

**Veterinary teaching hospital construction:** To construct, equip, and furnish a new teaching hospital for the department of veterinary medicine and surgery (92-2-013)

The (~~reappropriation~~) appropriation in this section shall not be expended until the capital project review requirements of section 1015 of this act have been met.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	32,310
H Ed Reimb Constr Acct . . . . .	\$	24,947,571
Subtotal Reappropriation . . . . .	\$	24,979,881

**Appropriation:**

<u>St Bldg Constr Acct</u> . . . . .	\$	<u>7,110,500</u>
Prior Biennia (Expenditures) . . . . .	\$	2,430,703
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	<u>((27,442,894))</u>
		34,521,084

NEW SECTION. Sec. 80. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

**Infrastructure project savings (94-1-999)**

Projects which are completed in accordance with section 1014, chapter 22, Laws of 1993 sp.s. that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the director of financial management.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	1
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	1

Sec. 81. 1993 sp.s. c 22 s 791 (uncodified) is amended to read as follows:

**FOR EASTERN WASHINGTON UNIVERSITY**

**Telecommunications: Cable replacement (90-2-004)**

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	1,400,000
EWU Cap Proj Acct . . . . .	\$	97,000
Subtotal Reappropriation . . . . .	\$	1,497,000

**Appropriation:**

EWU <u>Cap Proj</u> Acct . . . . .	\$	1,000,000
Prior Biennia (Expenditures) . . . . .	\$	1,087,392
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	3,584,392

Sec. 82. 1993 sp.s. c 22 s 808 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

**Psychology animal research facility (90-1-060)**

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	80,000
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**Appropriation:**

<u>CWU Cap Proj</u> Acct . . . . .	\$	200,000
Prior Biennia (Expenditures) . . . . .	\$	((1,620,000))
		1,935,848
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	((1,700,000))

2,215,848

Sec. 83. 1993 sp.s. c 22 s 813 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

**Barge Hall remodel (92-2-001)**

The appropriation in this section shall not be expended until the capital project review requirements of section 1015 of this act have been met.

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	<u>((2,550,000))</u>
		<u>2,425,000</u>
Prior Biennia (Expenditures) . . . . .	\$	<u>((9,031,970))</u>
		<u>9,598,398</u>
Future Biennia (Projected Costs) . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<u>((11,581,970))</u>
		<u>12,023,398</u>

NEW SECTION. Sec. 84. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

**Infrastructure project savings (94-1-999)**

Projects which are completed in accordance with section 1014, chapter 22, Laws of 1993 sp.s. that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the director of financial management.

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	<u>1</u>
Prior Biennia (Expenditures) . . . . .	\$	<u>0</u>
Future Biennia (Projected Costs) . . . . .	\$	<u>0</u>
TOTAL . . . . .	\$	<u>1</u>

NEW SECTION. Sec. 85. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

**Hertz Hall Structural Repairs (94-1-012)**

**Appropriation:**

St Bldg Constr Acct .....	\$	125,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	125,000

NEW SECTION. Sec. 86. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

**Infrastructure project savings (94-1-999)**

Projects which are completed in accordance with section 1014, chapter 22, Laws of 1993 sp.s. that have been reviewed by the office of financial management may have their remaining funds transferred to this project for the following purposes: (1) Road and sidewalk repair; (2) roof repair; (3) electrical system repair; (4) steam and utility distribution system repair; (5) plumbing system repair; (6) heating, ventilation, and air conditioning repairs; and (7) emergency repairs due to natural disasters or accidents.

A report of any transfer effected under this section shall be filed with the legislative fiscal committees of the senate and house of representatives by the director of financial management.

**Appropriation:**

St Bldg Constr Acct .....	\$	1
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	1

NEW SECTION. Sec. 87. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

**Capital Museum boiler replacement (94-1-003)**

**Appropriation:**

St Bldg Constr Acct .....	\$	14,000
Prior Biennia (Expenditures) .....	\$	0
Future Biennia (Projected Costs) .....	\$	0
TOTAL .....	\$	14,000

NEW SECTION. Sec. 88. A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

**Campbell House restoration (86-1-002)**

**Reappropriation:**

St Bldg Constr Acct . . . . .	\$	130,500
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	130,500

NEW SECTION. **Sec. 89.** A new section is added to 1993 sp.s. c 22 to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

**Cheney Cowles Museum: Emergency roof repair (94-1-001)**

**Appropriation:**

St Bldg Constr Acct . . . . .	\$	20,800
Prior Biennia (Expenditures) . . . . .	\$	0
Future Biennia (Projected Costs) . . . . .	\$	0
TOTAL . . . . .	\$	20,800

**PART 5**

**MISCELLANEOUS**

**Sec. 90.** 1993 sp.s. c 22 s 1002 (uncodified) is amended to read as follows:

**ACQUISITION OF PROPERTIES AND FACILITIES THROUGH FINANCIAL CONTRACTS.** The following agencies may enter into financial contracts, paid for from operating revenues, 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. When securing properties under this section, agencies shall use the most economical financial contract option available, including long-term leases, lease-purchase agreements, lease-development with option to purchase agreements, or financial contracts using certificates of participation. The director of general administration shall ensure that the clustering of state facilities and the collocation and consolidation of state agencies takes place where such configurations are economical and consistent with agency space needs. Agencies shall assist the department of general administration with facility collocation and consolidation efforts.

(1) Department of social and health services:

(a) Lease-develop with option to purchase or lease-purchase a new West Seattle customer service office to combine staff currently housed in three locations for \$6,000,000. The department of social and health services and the employment security department shall evaluate collocation in this facility;



- (b) Lease-develop the remodeling and expansion of the Mt. Vernon multiservice center for \$3,000,000;
  - (c) Enter into a long-term lease with option to purchase the existing facility used by the office of revenue collections in Olympia for \$11,000,000;
  - (d) Lease-develop with option to purchase or lease-purchase expanded office space for the office of revenue collections in Olympia for \$11,000,000;
  - (e) Lease-develop with option to purchase or lease-purchase space for consolidation of Thurston county service delivery programs for \$13,000,000. The department of social and health services and the employment security department shall evaluate collocation in this facility. The department shall follow the established office of financial management predesign process and receive approval from the office of financial management before initiating design of the project; and
  - (f) Lease-develop with option to purchase or lease-purchase space for consolidation of department programs in south Grays Harbor county for \$1,800,000. The department shall consider collocation with other state agencies in this facility.
- (2) Department of ecology: Lease-purchase the eastern regional office facility currently leased by the department for \$2,300,000.
- (3) Department of general administration:
- (a) Lease-purchase and upgrade an existing building, and purchase adjacent property and develop a new building in Yakima for a state government service center for \$24,800,000;
  - (b) Lease-purchase the 9th and Columbia, 13th and Jefferson, and Capital Plaza buildings in Olympia for \$11,100,000. The department shall prepare an engineering evaluation, cost-benefit study, and life-cycle cost analysis reviewing the maintenance, utility, and future renovation costs for each building. The authority to acquire the buildings is contingent on approval of these studies by the office of financial management; and
  - (c) Refinance and upgrade the 600 Franklin street building in Olympia for \$527,000.
- (4) Department of corrections:
- (a) Lease-purchase property from the department of natural resources at the Cedar Creek, Indian Ridge, Larch, and Olympic correctional centers for \$1,000,000;
  - (b) Lease-develop with option to purchase or lease-purchase 296 work release beds in facilities located throughout the state for \$9,898,758.
- (5) Western Washington University: Lease-purchase property adjacent to the campus for future expansion for \$5,000,000.
- (6) Community and technical colleges:
- (a) Lease-develop or lease-purchase off-campus program space for Clark College for \$6,000,000;
  - (b) Enter into a long-term lease for Green River Community College off-campus programs for approximately \$143,700 during the 1993-95 biennium;

(c) Lease-purchase 1.66 acres of land adjacent to Lake Washington Technical College for \$500,000;

(d) Lease-purchase a facility to provide instructional, meeting, and office space for Skagit Valley Community College on San Juan Island for \$600,000;

(e) Lease-purchase property on Whidbey Island for program space for Skagit Valley Community College for \$252,000;

(f) Lease-develop or lease-purchase space for the carpentry and electrical apprentice programs for Wenatchee Valley College for \$250,000;

(g) Lease-purchase 6 acres of property contiguous to Wenatchee Valley College for \$265,000;

(h) Lease-develop with option to purchase or lease-purchase expanded classroom space for Yakima Valley College in Ellensburg for \$625,000;

(i) Lease-develop or lease-purchase a central data processing and telecommunications facility to serve the 33 community and technical colleges for \$5,000,000 subject to approval of the office of financial management; ~~((and))~~

(j) Lease-purchase 55 acres adjacent to Green River Community College for \$200,000~~((=))~~;

(k) Acquire 5.13 acres contiguous to the eastern boundary of the Skagit Valley College campus, valued at \$250,000, for future expansion of the campus as identified in the Skagit Valley College master plan;

(l) Acquire the South Annex property, a 23,000 square-foot building adjacent to the Seattle Central Community College campus, valued at \$2,250,000, for continued use as instructional space for Seattle Central Community College programs;

(m) Acquire a residence that abuts the Bellevue Community College campus, valued at \$180,000, for use as an English language center and long-term campus expansion;

(n) Acquire improved instructional and work force training facilities for Spokane Community College in Colville, valued at up to \$1,500,000, in exchange for existing community college facilities in Colville valued at \$1,250,000;

(o) Acquire 6.69 acres contiguous to the South Puget Sound Community College campus, valued at up to \$1,500,000, for future campus expansion;

(p) Enter into a financing contract on behalf of Whatcom Community College in the amount of \$1,200,000, plus financing expenses and reserves pursuant to chapter 39.94 RCW, for the construction of a \$2,000,000 multi-purpose/physical education facility on the Whatcom Community College campus. Whatcom Community College shall provide the balance of project costs in local funds;

(q) Enter into a financing contract on behalf of Tacoma Community College in the amount of \$1,000,000, plus financing expenses and reserves pursuant to chapter 39.94 RCW for construction of a \$1,500,000 bookstore addition to the Tacoma Community College student center. Tacoma Community College shall provide the balance of project costs in local funds;

(r) Enter into a financing contract on behalf of Columbia Basin College in the amount of \$3,000,000, plus financing expenses and reserves pursuant to chapter 39.94 RCW, for construction of a \$4,000,000 work force/vocational training facility. Columbia Basin College shall provide the balance of project costs in local funds; and

(s) Enter into a financing contract on behalf of Shoreline Community College in the amount of \$400,000, plus financing expenses and reserves pursuant to chapter 39.94 RCW, for construction of a \$3,500,000 vocational art facility. The balance of the construction funds are currently appropriated in the capital budget.

(7) Employment security department: Enter into a long-term lease for the 19,000 square-foot Lakewood Job Service Center, \$1,600,000, for approximately \$150,000 during the 1993-95 biennium.

(8) Washington state apple advertising commission: Enter into a financing contract for the purpose of expanding its Wenatchee headquarter facility in the principal amount of four hundred thousand dollars plus financing expenses and required reserves under chapter 39.94 RCW.

**Sec. 91.** 1993 sp.s. c 22 s 1011 (uncodified) is amended to read as follows:

(1) Unless otherwise stated, for all appropriations under this act that require a match of nonstate money or in-kind contributions, the following requirement, consistent with RCW 43.88.150, shall apply: Expenditures of state money shall be timed so that the state share of project expenditures never exceeds the intended state share of total project costs.

(2) Provision of the full amount of required matching funds is not required to permit the expenditure of capital budget appropriations for phased projects if a proportional amount of the required matching funds is provided for each distinct, identifiable phase of the project.

**NEW SECTION. Sec. 92.** 1993 sp.s. c 22 s 101 (uncodified) is repealed.

**NEW SECTION. Sec. 93.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

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### CHAPTER 309

[Substitute Senate Bill 6307]

#### HEALTH CARE AUTHORITY--POWERS AND DUTIES

AN ACT Relating to clarifying health care authority powers and duties; amending RCW 41.05.075, 70.47.020, 70.47.060, and 70.47.130; reenacting and amending RCW 41.05.021 and 41.05.050; and creating a new section.

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

**Sec. 1.** RCW 41.05.021 and 1993 c 492 s 215 and 1993 c 386 s 6 are each reenacted and amended to read as follows:

(1) The Washington state health care authority is created within the executive branch. The authority shall have an administrator appointed by the governor, with the consent of the senate. The administrator shall serve at the pleasure of the governor. The administrator may employ up to seven staff members, who shall be exempt from chapter 41.06 RCW, and any additional staff members as are necessary to administer this chapter. The administrator may delegate any power or duty vested in him or her by this chapter, including authority to make final decisions and enter final orders in hearings conducted under chapter 34.05 RCW. The primary duties of the authority shall be to administer state employees' insurance benefits and retired or disabled school employees' insurance benefits, study state-purchased health care programs in

order to maximize cost containment in these programs while ensuring access to quality health care, and implement state initiatives, joint purchasing strategies, and techniques for efficient administration that have potential application to all state-purchased health services. The authority's duties include, but are not limited to, the following:

(a) To administer health care benefit programs for employees and retired or disabled school employees as specifically authorized in RCW 41.05.065 and in accordance with the methods described in RCW 41.05.075, 41.05.140, and other provisions of this chapter;

(b) To analyze state-purchased health care programs and to explore options for cost containment and delivery alternatives for those programs that are consistent with the purposes of those programs, including, but not limited to:

(i) Creation of economic incentives for the persons for whom the state purchases health care to appropriately utilize and purchase health care services, including the development of flexible benefit plans to offset increases in individual financial responsibility;

(ii) Utilization of provider arrangements that encourage cost containment, including but not limited to prepaid delivery systems, utilization review, and prospective payment methods, and that ensure access to quality care, including assuring reasonable access to local providers, especially for employees residing in rural areas;

(iii) Coordination of state agency efforts to purchase drugs effectively as provided in RCW 70.14.050;

(iv) Development of recommendations and methods for purchasing medical equipment and supporting services on a volume discount basis; and

(v) Development of data systems to obtain utilization data from state-purchased health care programs in order to identify cost centers, utilization patterns, provider and hospital practice patterns, and procedure costs, utilizing the information obtained pursuant to RCW 41.05.031;

(c) To analyze areas of public and private health care interaction;

(d) To provide information and technical and administrative assistance to the board;

(e) To review and approve or deny applications from counties, municipalities, and other political subdivisions of the state to provide state-sponsored insurance or self-insurance programs to their employees in accordance with the provisions of RCW 41.04.205, setting the premium contribution for approved groups as outlined in RCW 41.05.050;

(f) To appoint a health care policy technical advisory committee as required by RCW 41.05.150;

(g) To establish billing procedures and collect funds from school districts and educational service districts under RCW 28A.400.400 in a way that minimizes the administrative burden on districts; and

(h) To promulgate and adopt rules consistent with this chapter as described in RCW 41.05.160.

(2) After July 1, 1995, the public employees' benefits board shall implement strategies to promote managed competition among employee health benefit plans ((by January 1, 1995, including but)) in accordance with the Washington health services commission schedule of employer requirements. Strategies may include but are not limited to:

(a) Standardizing the benefit package;

(b) Soliciting competitive bids for the benefit package;

(c) Limiting the state's contribution to a percent of the lowest priced ~~((sealed bid of a))~~ qualified plan within a geographical area. If the state's contribution is less than one hundred percent of the lowest priced ~~((sealed))~~ qualified bid, employee financial contributions shall be structured on a sliding-scale basis related to household income;

(d) Monitoring the impact of the approach under this subsection with regards to: Efficiencies in health service delivery, cost shifts to subscribers, access to and choice of managed care plans state-wide, and quality of health services. The health care authority shall also advise on the value of administering a benchmark employer-managed plan to promote competition among managed care plans. The health care authority shall report its findings and recommendations to the legislature by January 1, 1997.

**Sec. 2.** RCW 41.05.050 and 1993 c 492 s 216 and 1993 c 386 s 7 are each reenacted and amended to read as follows:

(1) Every department, division, or separate agency of state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall provide contributions to insurance and health care plans for its employees and their dependents, the content of such plans to be determined by the authority. Contributions, paid by the county, the municipality, 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. Contributions to be paid by school districts or educational service districts shall be adjusted by the authority to reflect that retired school employees are covered under RCW 41.05.250, and are not covered under RCW 41.05.080. All such contributions will be paid into the public employees' health insurance account.

(2) The contributions of any department, division, or separate agency of the state government, and such county, municipal, or other political subdivisions as are covered by this chapter, shall be set by the 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 until December 31, 1996. On and after January 1, 1997, ferry employees shall enroll with certified health plans under chapter 492, Laws of 1993.

(3) ~~((The administrator with the assistance of the public employees' benefits board shall survey private industry and public employers in the state of Washington to determine the average employer contribution for group insurance~~

~~programs under the jurisdiction of the authority. Such survey shall be conducted during each even-numbered year but may be conducted more frequently. The survey shall be reported to the authority for its use in setting the amount of the recommended employer contribution to the employee insurance benefit program covered by this chapter.~~) 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.

**Sec. 3.** RCW 41.05.075 and 1993 c 386 s 10 are each amended to read as follows:

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that encourages competition among insuring entities, is timely to the state budgetary process, and sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

~~(5) ((The administrator shall establish methods for collecting, analyzing, and disseminating to covered individuals information on the cost and quality of services rendered by individual health care providers.~~

~~(6))~~ All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all information deemed necessary to fulfill the administrator's duties as set forth in this chapter.

~~((7))~~ (6) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and 18.88 RCW. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a)(i), (b), and (d).

~~((8))~~ (7) Beginning in January 1990, and each January thereafter, the administrator shall publish and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled.

**Sec. 4.** RCW 70.47.020 and 1993 c 492 s 209 are each amended to read as follows:

As used in this chapter:

(1) "Washington basic health plan" or "plan" means the system of enrollment and payment on a prepaid capitated basis for basic health care services, administered by the plan administrator through participating managed health care systems, created by this chapter.

(2) "Administrator" means the Washington basic health plan administrator, who also holds the position of administrator of the Washington state health care authority.

(3) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, or any combination thereof, that provides directly or by contract basic health care services, as defined by the administrator and rendered by duly licensed providers, on a prepaid capitated basis to a defined patient population enrolled in the plan and in the managed health care system. On and after July 1, 1995, "managed health care system" means a certified health plan, as defined in RCW 43.72.010.

(4) "Subsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children, not eligible for medicare, who resides in an area of the state served by a managed health care system participating in the plan, whose gross family income at the time of enrollment does not exceed twice the federal poverty level as adjusted for family size and determined annually by the federal department of health and human services, who the administrator determines ~~((at the time of application does))~~ shall not have, or shall not have voluntarily relinquished health insurance more comprehensive than that offered by the plan as of the effective date of enrollment, and who chooses to obtain basic health care coverage from a particular managed health care system in return for periodic payments to the plan.

(5) "Nonsubsidized enrollee" means an individual, or an individual plus the individual's spouse or dependent children, not eligible for medicare, who resides in an area of the state served by a managed health care system participating in the plan, who the administrator determines ~~((at the time of application does))~~ shall not have, or shall not have voluntarily relinquished health insurance more comprehensive than that offered by the plan as of the effective date of enrollment, and who chooses to obtain basic health care coverage from a particular managed health care system, and who pays or on whose behalf is paid the full costs for participation in the plan, without any subsidy from the plan.

(6) "Subsidy" means the difference between the amount of periodic payment the administrator makes to a managed health care system on behalf of a subsidized enrollee plus the administrative cost to the plan of providing the plan to that subsidized enrollee, and the amount determined to be the subsidized enrollee's responsibility under RCW 70.47.060(2).

(7) "Premium" means a periodic payment, based upon gross family income which an individual, their employer or another financial sponsor makes to the plan as consideration for enrollment in the plan as a subsidized enrollee or a nonsubsidized enrollee.



(8) "Rate" means the per capita amount, negotiated by the administrator with and paid to a participating managed health care system, that is based upon the enrollment of subsidized and nonsubsidized enrollees in the plan and in that system.

**Sec. 5.** RCW 70.47.060 and 1993 c 492 s 212 are each amended to read as follows:

The administrator has the following powers and duties:

(1) To design and from time to time revise a schedule of covered basic health care services, including physician services, inpatient and outpatient hospital services, prescription drugs and medications, and other services that may be necessary for basic health care, which subsidized and nonsubsidized enrollees in any participating managed health care system under the Washington basic health plan shall be entitled to receive in return for premium payments to the plan. The schedule of services shall emphasize proven preventive and primary health care and shall include all services necessary for prenatal, postnatal, and well-child care. However, with respect to coverage for groups of subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that such services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider. The schedule of services shall also include a separate schedule of basic health care services for children, eighteen years of age and younger, for those subsidized or nonsubsidized enrollees who choose to secure basic coverage through the plan only for their dependent children. In designing and revising the schedule of services, the administrator shall consider the guidelines for assessing health services under the mandated benefits act of 1984, RCW 48.42.080, and such other factors as the administrator deems appropriate. On and after July 1, 1995, the uniform benefits package adopted and from time to time revised by the Washington health services commission pursuant to RCW 43.72.130 shall be implemented by the administrator as the schedule of covered basic health care services. However, with respect to coverage for subsidized enrollees who are eligible to receive prenatal and postnatal services through the medical assistance program under chapter 74.09 RCW, the administrator shall not contract for such services except to the extent that the services are necessary over not more than a one-month period in order to maintain continuity of care after diagnosis of pregnancy by the managed care provider.

(2)(a) To design and implement a structure of periodic premiums due the administrator from subsidized enrollees that is based upon gross family income, giving appropriate consideration to family size and the ages of all family members. The enrollment of children shall not require the enrollment of their parent or parents who are eligible for the plan. The structure of periodic premiums shall be applied to subsidized enrollees entering the plan as individuals pursuant to subsection (9) of this section and to the share of the cost of the plan

due from subsidized enrollees entering the plan as employees pursuant to subsection (10) of this section.

(b) To determine the periodic premiums due the administrator from nonsubsidized enrollees. Premiums due from nonsubsidized enrollees shall be in an amount equal to the cost charged by the managed health care system provider to the state for the plan plus the administrative cost of providing the plan to those enrollees and the ~~((appropriate))~~ premium tax ~~((as provided by law))~~ under RCW 48.14.0201.

(c) An employer or other financial sponsor may, with the prior approval of the administrator, pay the premium, rate, or any other amount on behalf of a subsidized or nonsubsidized enrollee, by arrangement with the enrollee and through a mechanism acceptable to the administrator, but in no case shall the payment made on behalf of the enrollee exceed the total premiums due from the enrollee.

(3) To design and implement a structure of copayments due a managed health care system from subsidized and nonsubsidized enrollees. The structure shall discourage inappropriate enrollee utilization of health care services, but shall not be so costly to enrollees as to constitute a barrier to appropriate utilization of necessary health care services. On and after July 1, 1995, the administrator shall endeavor to make the copayments structure of the plan consistent with enrollee point of service cost-sharing levels adopted by the Washington health services commission, giving consideration to funding available to the plan.

(4) To limit enrollment of persons who qualify for subsidies so as to prevent an overexpenditure of appropriations for such purposes. Whenever the administrator finds that there is danger of such an overexpenditure, the administrator shall close enrollment until the administrator finds the danger no longer exists.

(5) To limit the payment of subsidies to subsidized enrollees, as defined in RCW 70.47.020.

(6) To adopt a schedule for the orderly development of the delivery of services and availability of the plan to residents of the state, subject to the limitations contained in RCW 70.47.080 or any act appropriating funds for the plan.

(7) To solicit and accept applications from managed health care systems, as defined in this chapter, for inclusion as eligible basic health care providers under the plan. The administrator shall endeavor to assure that covered basic health care services are available to any enrollee of the plan from among a selection of two or more participating managed health care systems. In adopting any rules or procedures applicable to managed health care systems and in its dealings with such systems, the administrator shall consider and make suitable allowance for the need for health care services and the differences in local availability of health care resources, along with other resources, within and among the several areas of the state. Contracts with participating managed health care systems shall

ensure that basic health plan enrollees who become eligible for medical assistance may, at their option, continue to receive services from their existing providers within the managed health care system if such providers have entered into provider agreements with the department of social and health services.

(8) To receive periodic premiums from or on behalf of subsidized and nonsubsidized enrollees, deposit them in the basic health plan operating account, keep records of enrollee status, and authorize periodic payments to managed health care systems on the basis of the number of enrollees participating in the respective managed health care systems.

(9) To accept applications from individuals residing in areas served by the plan, on behalf of themselves and their spouses and dependent children, for enrollment in the Washington basic health plan as subsidized or nonsubsidized enrollees, to establish appropriate minimum-enrollment periods for enrollees as may be necessary, and to determine, upon application and at least semiannually thereafter, or at the request of any enrollee, eligibility due to current gross family income for sliding scale premiums. No subsidy may be paid with respect to any enrollee whose current gross family income exceeds twice the federal poverty level or, subject to RCW 70.47.110, who is a recipient of medical assistance or medical care services under chapter 74.09 RCW. If, as a result of an eligibility review, the administrator determines that a subsidized enrollee's income exceeds twice the federal poverty level and that the enrollee knowingly failed to inform the plan of such increase in income, the administrator may bill the enrollee for the subsidy paid on the enrollee's behalf during the period of time that the enrollee's income exceeded twice the federal poverty level. If a number of enrollees drop their enrollment for no apparent good cause, the administrator may establish appropriate rules or requirements that are applicable to such individuals before they will be allowed to re-enroll in the plan.

(10) To accept applications from business owners on behalf of themselves and their employees, spouses, and dependent children, as subsidized or nonsubsidized enrollees, who reside in an area served by the plan. The administrator may require all or the substantial majority of the eligible employees of such businesses to enroll in the plan and establish those procedures necessary to facilitate the orderly enrollment of groups in the plan and into a managed health care system. The administrator shall require that a business owner pay at least fifty percent of the nonsubsidized premium cost of the plan on behalf of each employee enrolled in the plan. Enrollment is limited to those not eligible for medicare who wish to enroll in the plan and choose to obtain the basic health care coverage and services from a managed care system participating in the plan. The administrator shall adjust the amount determined to be due on behalf of or from all such enrollees whenever the amount negotiated by the administrator with the participating managed health care system or systems is modified or the administrative cost of providing the plan to such enrollees changes.

(11) To determine the rate to be paid to each participating managed health care system in return for the provision of covered basic health care services to

enrollees in the system. Although the schedule of covered basic health care services will be the same for similar enrollees, the rates negotiated with participating managed health care systems may vary among the systems. In negotiating rates with participating systems, the administrator shall consider the characteristics of the populations served by the respective systems, economic circumstances of the local area, the need to conserve the resources of the basic health plan trust account, and other factors the administrator finds relevant.

(12) To monitor the provision of covered services to enrollees by participating managed health care systems in order to assure enrollee access to good quality basic health care, to require periodic data reports concerning the utilization of health care services rendered to enrollees in order to provide adequate information for evaluation, and to inspect the books and records of participating managed health care systems to assure compliance with the purposes of this chapter. In requiring reports from participating managed health care systems, including data on services rendered enrollees, the administrator shall endeavor to minimize costs, both to the managed health care systems and to the plan. The administrator shall coordinate any such reporting requirements with other state agencies, such as the insurance commissioner and the department of health, to minimize duplication of effort.

(13) To evaluate the effects this chapter has on private employer-based health care coverage and to take appropriate measures consistent with state and federal statutes that will discourage the reduction of such coverage in the state.

(14) To develop a program of proven preventive health measures and to integrate it into the plan wherever possible and consistent with this chapter.

(15) To provide, consistent with available funding, assistance for rural residents, underserved populations, and persons of color.

**Sec. 6.** RCW 70.47.130 and 1987 1st ex.s. c 5 s 15 are each amended to read as follows:

The activities and operations of the Washington basic health plan under this chapter, including those of managed health care systems to the extent of their participation in the plan, are exempt from the provisions and requirements of Title 48 RCW, except as provided in RCW 70.47.070 and that the premium and prepayment tax imposed under RCW 48.14.0201 shall apply to amounts paid to a managed health care system by the basic health plan for participating in the basic health plan and providing health care services for nonsubsidized enrollees in the basic health plan. The purpose of the 1994 amendatory language to this section in chapter . . . , Laws of 1994 (this act) is to clarify the intent of the legislature that premiums paid on behalf of nonsubsidized enrollees in the basic health plan are subject to the premium and prepayment tax. The legislature does not consider this clarifying language to either raise existing taxes nor to impose a tax that did not exist previously.

**NEW SECTION. Sec. 7.** If a court in a permanent injunction, permanent order, or final decision determines that the amendments made by sections 5 and

6 of this act must be submitted to the people for their adoption and ratification, or rejection, as a result of section 13, chapter 2, Laws of 1994, the amendments made by sections 5 and 6 of this act shall be null and void.

Passed the Senate March 6, 1994.

Passed the House March 3, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

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# **WASHINGTON LAWS**

**1994 FIRST SPECIAL SESSION**





## CHAPTER 1

[Engrossed House Bill 2664]

## INVESTMENT PROJECTS IN DISTRESSED AREAS—TAX INCENTIVE

AN ACT Relating to tax deferrals for investment projects in distressed areas; amending RCW 82.60.020, 82.60.030, 82.60.040, 82.60.070, 82.60.065, and 82.60.050; adding new sections to chapter 82.60 RCW; and providing an effective date.

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

**Sec. 1.** RCW 82.60.020 and 1993 sp.s. c 25 s 403 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

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

(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; ~~((or))~~ (c) a designated neighborhood reinvestment area approved under RCW 43.63A.700; (d) a town with a population of less than twelve hundred persons in those counties that are not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601; or (e) a county designated by the governor as an eligible area under section 9 of this act.

(4)(a) "Eligible investment project" means that portion of an investment project which:

(i) Is directly utilized to create at least one new full-time qualified employment position for each three hundred thousand dollars of investment on which a deferral is requested in an application approved before July 1, 1994, and for each seven hundred fifty thousand dollars of investment on which a deferral is requested in an application approved after June 30, 1994; and

(ii) Either initiates a new operation, or expands or diversifies a current operation by expanding, equipping, or renovating an existing ((building)) facility with costs in excess of twenty-five percent of the true and fair value of the ((plant complex)) facility prior to improvement((; or

~~(iii) Acquires machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure)).~~ The lessor/owner of ((the structure)) a qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the

lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(b) For purposes of (a)(i) of this subsection, the number of new full-time qualified employment positions created by an investment project shall be deemed to be reduced by the number of full-time employment positions maintained by the recipient in any other community in this state that are displaced as a result of the investment project.

(c) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5), other than cogeneration projects that are both an integral part of a manufacturing facility and owned at least fifty percent by the manufacturer, or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings ~~(and)~~ or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means ~~(new)~~ structures used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

**Sec. 2.** RCW 82.60.030 and 1985 c 232 s 3 are each amended to read as follows:

Application for deferral of taxes under this chapter must be made before initiation of the construction of the investment project or acquisition of equipment or machinery. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the investment project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department shall rule on the application within sixty days.

**Sec. 3.** RCW 82.60.040 and 1986 c 116 s 13 are each amended to read as follows:

(1) The department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project that:

(a) Is located in an eligible area other than a designated neighborhood reinvestment area approved under RCW 43.63A.700;

(b) Is located in any county if seventy-five percent of the new qualified employment positions are to be filled by residents of a contiguous county that qualifies as an eligible area; or

(c) Is located in a designated neighborhood reinvestment area approved under RCW 43.63A.700, or in a county containing such a neighborhood reinvestment area, if seventy-five percent of the new qualified employment positions are to be filled by residents of the neighborhood reinvestment area.

(2) The department shall keep a running total of all deferrals granted under this chapter during each fiscal biennium.

**NEW SECTION.** **Sec. 4.** A new section is added to chapter 82.60 RCW to read as follows:

In addition to the other requirements of this chapter, a recipient of a tax deferral under RCW 82.60.040(1) (b) or (c) shall meet the following requirements:

(1) The recipient shall fill at least seventy-five percent of the new qualified employment positions with residents of the contiguous county or neighborhood reinvestment area by December 31 of the calendar year during which the department certifies that the investment project is operationally completed, and

shall maintain the required percentage during each of the seven succeeding calendar years.

(2) If the deferral is for expansion or diversification of an existing facility, the recipient shall ensure that the percentage of qualified employment positions filled by residents of the contiguous county or neighborhood reinvestment area for periods prior to the application be maintained for seven calendar years after the year during which the department certifies that the investment project is operationally completed.

**Sec. 5.** RCW 82.60.070 and 1985 c 232 s 6 are each amended to read as follows:

(1) Each recipient of a deferral granted under this chapter prior to July 1, 1994, shall submit a report to the department on December 31st of each year during the repayment period until the tax deferral is repaid. Each recipient of a deferral granted under this chapter after June 30, 1994, shall submit a report to the department on December 31st of the year in which the investment project is certified by the department as having been operationally completed, and on December 31st of each of the seven succeeding calendar years. The report shall contain information, as required by the department, from which the department may determine whether the recipient is meeting the requirements of this chapter. If the recipient fails to submit a report or submits an inadequate report, the department may declare the amount of deferred taxes outstanding to be immediately assessed and payable.

(2) If, on the basis of a report under this section or other information, the department finds that an investment project is not eligible for tax deferral under this chapter for reasons other than failure to create the required number of qualified employment positions, the amount of deferred taxes outstanding for the project shall be immediately due.

(3) If, on the basis of a report under this section or other information, the department finds that an investment project for which a deferral has been granted under this chapter prior to July 1, 1994, has been operationally complete for three years and has failed to create the required number of qualified employment positions, the department shall assess interest, but not penalties, on the deferred taxes for the project. The interest shall be assessed at the rate provided for delinquent excise taxes, shall be assessed retroactively to the date of deferral, and shall accrue until the deferred taxes are repaid.

(4) If, on the basis of a report under this section or other information, the department finds that an investment project for which a deferral has been granted under this chapter after June 30, 1994, has been operationally complete for three years and has failed to create the required number of qualified employment positions, the amount of taxes not eligible for deferral shall be immediately due. The department shall assess interest at the rate provided for delinquent excise taxes, but not penalties, retroactively to the date of deferral.

(5) If, on the basis of a report under this section or other information, the department finds that an investment project qualifying for deferral under RCW

82.60.040(1) (b) or (c) has failed to comply with any requirement of section 4 of this act for any calendar year for which reports are required under subsection (1) of this section, twelve and one-half percent of the amount of deferred taxes shall be immediately due. The department shall assess interest at the rate provided for delinquent excise taxes, but not penalties, retroactively to the date of deferral.

Sec. 6. RCW 82.60.065 and 1986 c 116 s 14 are each amended to read as follows:

~~((Notwithstanding any other provision of this chapter,))~~ Except as provided in RCW 82.60.070:

(1) Taxes deferred under this chapter on the sale or use of labor that is directly used in the construction of an investment project for which a deferral has been granted under this chapter after June 11, 1986, and prior to July 1, 1994, need not be repaid.

(2) Taxes deferred under this chapter on an investment project for which a deferral has been granted under this chapter after June 30, 1994, need not be repaid.

Sec. 7. RCW 82.60.050 and 1993 sp.s. c 25 s 404 are each amended to read as follows:

RCW 82.60.030 and 82.60.040 shall expire July 1, ~~((1998))~~ 2004.

NEW SECTION. Sec. 8. A new section is added to chapter 82.60 RCW to read as follows:

If the department determines that an investment project for which an exemption is granted under this chapter competes with an investment project for which a deferral is granted under this chapter, the department shall study the impacts on the project for which a deferral is granted and report to the fiscal committees of the legislature concerning revenue matters.

NEW SECTION. Sec. 9. A new section is added to chapter 82.60 RCW to read as follows:

The governor is authorized to designate a county as an eligible area for purposes of this chapter if, as a result of a natural disaster or business or military base closure or mass layoff, the twelve-month average unemployment rate using the projected level of new unemployment in the county over the ensuing twelve months added to the base unemployment level in the county for the preceding twelve months will exceed the previous twelve-month average state unemployment rate by forty percent. The designation shall be effective for a period of twelve months.

NEW SECTION. Sec. 10. This act shall take effect July 1, 1994.

Passed the House March 14, 1994.

Passed the Senate March 14, 1994.

Approved by the Governor March 31, 1994.

Filed in Office of Secretary of State March 31, 1994.

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## CHAPTER 2

[Substitute House Bill 2671]

### TAX RELIEF FOR SMALL BUSINESSES

AN ACT Relating to gross receipts tax relief for small businesses; amending RCW 82.32.030 and 70.95E.020; adding a new section to chapter 82.04 RCW; creating a new section; repealing RCW 82.04.300; and providing an effective date.

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

**NEW SECTION. Sec. 1.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed against the amount of tax otherwise due under this chapter, as provided in this section. The maximum credit for a taxpayer for a reporting period is thirty-five dollars multiplied by the number of months in the reporting period, as determined under RCW 82.32.045.

(2) When the amount of tax otherwise due under this chapter is equal to or less than the maximum credit, a credit is allowed equal to the amount of tax otherwise due under this chapter.

(3) When the amount of tax otherwise due under this chapter exceeds the maximum credit, a reduced credit is allowed equal to twice the maximum credit, minus the tax otherwise due under this chapter, but not less than zero.

**Sec. 2.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she shall, under such rules as the department of revenue shall prescribe, apply for and obtain from the department a registration certificate (~~(upon payment of fifteen dollars)~~). Such registration certificate shall be personal and nontransferable and shall be valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required (~~(but, for such additional certificates no additional payment shall be required)~~). Each certificate shall be numbered and shall show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the existing certificate, and a new certificate will be issued for the

new place of business (~~(free of charge)~~). No person required to be registered under this section shall engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration(~~(-without requiring payment,)~~) to temporary places of business (~~(or to persons who are exempt from tax under RCW 82.04.300)~~).

(2) Registration under this section is not required if the following conditions are met:

(a) A person's value of products, gross proceeds of sales, or gross income of the business (~~(is below the tax reporting threshold provided in RCW 82.04.300)~~), from all business activities, is less than twelve thousand dollars per year;

(b) The person is not required to collect or pay to the department of revenue any other tax which the department is authorized to collect; and

(c) The person is not otherwise required to obtain a license subject to the master application procedure provided in chapter 19.02 RCW.

**Sec. 3.** RCW 70.95E.020 and 1990 c 114 s 12 are each amended to read as follows:

A fee is imposed for the privilege of generating or potentially generating hazardous waste in the state. The annual amount of the fee shall be thirty-five dollars upon every known generator or potential generator doing business in Washington in the current calendar year or any part thereof. This fee shall be collected by the department of revenue. A potential generator shall be exempt from the fee imposed under this section if the (~~(potential generator is entitled to the exemption in RCW 82.04.300)~~) value of products, gross proceeds of sales, or gross income of the business, from all business activities of the potential generator, is less than twelve thousand dollars in the current calendar year. The department shall, subject to appropriation, use the funds collected from the fees assessed in this subsection to support the activities of the office of waste reduction as specified in RCW 70.95C.030. The fee imposed pursuant to this section shall be first due on July 31, 1990, for any generator or potential generator operating in Washington from March 21, 1990, to December 31, 1990, or any part thereof.

**NEW SECTION. Sec. 4.** RCW 82.04.300 and 1992 c 206 s 7, 1983 c 3 s 213, 1979 ex.s. c 196 s 4, 1975 1st ex.s. c 278 s 41, 1961 c 293 s 3, & 1961 c 15 s 82.04.300 are each repealed.

**NEW SECTION. Sec. 5.** This act shall take effect on July 1, 1994.

**NEW SECTION. Sec. 6.** Section 1 of this act applies to the entire period of reporting periods ending after the effective date of this act.

Passed the House March 14, 1994.

Passed the Senate March 14, 1994.

Approved by the Governor March 31, 1994.

Filed in Office of Secretary of State March 31, 1994.

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### CHAPTER 3

[Engrossed Substitute House Bill 2699]

#### YOUTHBUILD PROGRAM

AN ACT Relating to community empowerment; reenacting and amending RCW 43.185.070; adding a new section to chapter 50.67 RCW; and adding a new chapter to Title 50 RCW.

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

**NEW SECTION.** Sec. 1. (1) The legislature finds that there is a need to:

(a) Expand the supply of permanent affordable housing for homeless individuals, low and very low-income persons, and special need populations by utilizing the energies and talents of economically disadvantaged youth;

(b) Provide economically disadvantaged youth with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals, low and very low-income persons, and special need populations;

(c) Enable economically disadvantaged youth to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

(d) Foster the development of leadership skills and commitment to community development among youth in designated community empowerment zones.

(2) The legislature declares that the purpose of the Washington youthbuild program is to:

(a) Help disadvantaged youth who have dropped out of school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in designated community empowerment zones; and

(b) Provide funding assistance to entities implementing programs that provide comprehensive education and skills training programs designed to lead to self-sufficiency for economically disadvantaged youth.

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

(1) "Applicant" means a public or private nonprofit organization agency eligible to provide education and employment training under federal or state employment training programs.

(2) "Commissioner" means the commissioner of employment security.

(3) "Department" means the employment security department.

(4) "Low income" has the same meaning as in RCW 43.185A.010.

(5) "Participant" means an individual that:



- (a) Is sixteen to twenty-four years of age, inclusive;
- (b) Is or is a member of a very low-income household; and
- (c) Is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

(6) "Very low income" means a person or household whose income is at or below fifty percent of the median family income, adjusted for household size, for the county where the household is located.

(7) "Youthbuild" means any program that provides disadvantaged youth with opportunities for employment, education, leadership development, entrepreneurial skills development, and training in the construction or rehabilitation of housing for special need populations, very low-income households, or low-income households.

NEW SECTION. Sec. 3. The Washington youthbuild program is established within the department. The commissioner, in cooperation and consultation with the director of the department of community, trade, and economic development, shall:

(1) Make grants, up to the lesser of three hundred thousand dollars or twenty-five percent of the total costs of the youthbuild activities, to applicants eligible to provide education and employment training under federal or state employment training programs, for the purpose of carrying out a wide range of multidisciplinary activities and services to assist economically disadvantaged youth under the federal opportunities for youth: Youthbuild program (106 Stat. 3723; 42 U.S.C. Sec. 8011), or locally developed youthbuild-type programs for economically disadvantaged youth; and

(2) Coordinate youth employment and training efforts under the department's jurisdiction and cooperate with other agencies and departments providing youth services to ensure that funds appropriated for the purposes of this chapter will be used to supplement funding from federal, state, local, or private sources.

NEW SECTION. Sec. 4. (1) Grants made under this chapter shall be used to fund an applicant's activities to implement a comprehensive education and employment skills training program.

(2) Activities eligible for assistance under this chapter include:

(a) Education and job skills training services and activities that include:

(i) Work experience and skills training, coordinated to the maximum extent feasible, with preapprenticeship and apprenticeship programs in construction and rehabilitation trades;

(ii) Services and activities designed to meet the educational needs of participants, including basic skills instruction and remedial education, bilingual education for participants with limited-English proficiency, secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent, and counseling and assistance in attaining postsecondary education and required financial aid;

- (b) Counseling services and related activities;
- (c) Activities designed to develop employment and leadership skills;
- (d) Support services and need-based stipends necessary to enable the participant to participate in the program and to assist participants through support services in retaining employment;
- (e) Wage stipends and benefits provided to participants; and
- (f) Administrative costs of the applicant, not to exceed five percent of the amount of assistance provided under this chapter.

**NEW SECTION. Sec. 5.** (1) An individual selected as a participant in the youthbuild program under this chapter may be offered full-time participation for a period of not less than six months and not more than twenty-four months.

(2) An applicant's program that is selected for funding under this chapter shall be structured so that fifty percent of the time spent by the participants in the youthbuild program is devoted to educational services and activities, such as those outlined in section 4 of this act.

**NEW SECTION. Sec. 6.** (1) An application for a grant under this chapter shall be submitted by the applicant in such form and in accordance with the requirements as determined by the commissioner.

(2) The application for a grant under this chapter shall contain at a minimum:

- (a) The amount of the grant request and its proposed use;
- (b) A description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs and other community groups;
- (c) A description of the proposed site for the program;
- (d) A description of the educational and job training activities, work opportunities, and other services that will be provided to participants;
- (e) A description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;
- (f) A description of the manner in which eligible participants will be recruited and selected, including a description of arrangements which will be made with federal or state agencies, community-based organizations, local school districts, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;
- (g) A description of the special outreach efforts that will be undertaken to recruit eligible young women, including young women with dependent children;
- (h) A description of how the proposed program will be coordinated with other federal, state, local, and private resources and programs, including vocational, adult, and bilingual education programs, and job training programs;

(i) Assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or have served an apprenticeship through the Washington state apprenticeship training council;

(j) A description of the applicant's relationship with building contractor groups and trade unions regarding their involvement in training, and the relationship of the youthbuild program with established apprenticeship and training programs;

(k) A description of activities that will be undertaken to develop the leadership skills of the participants;

(l) A description of the commitments for any additional resources to be made available to the local program from the applicant, from recipients of other federal, state, local, or private sources; and

(m) Other factors the commissioner deems necessary.

**NEW SECTION.** Sec. 7. (1) An applicant selected for funding under this chapter shall provide the department information on program and participant accomplishments. The information shall be provided in progress and final reports as requested by the department.

(2) The department shall prepare an initial evaluation report, which shall be made available to the governor and appropriate legislative committees, on or before December 1, 1995, on the progress of individual programs funded under this chapter. A final evaluation report shall be prepared on individual programs at the time of their completion. The final evaluation report shall include, but is not limited to, information on the effectiveness of the program, the status of program participants, and recommendations on program administration at the state and local level.

**NEW SECTION.** Sec. 8. A new section is added to chapter 50.67 RCW to read as follows:

In addition to its duties under this chapter, the Washington state job training coordinating council shall advise the employment security department and the department of community, trade, and economic development on the development and implementation of the Washington youthbuild program created under sections 1 through 7 of this act.

**Sec. 9.** RCW 43.185.070 and 1991 c 356 s 5 and 1991 c 295 s 2 are each reenacted and amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as

will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed four percent of annual revenues available for distribution to housing trust fund projects. In awarding funds under this chapter, the department shall provide for a geographic distribution on a state-wide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

- (a) The degree of leveraging of other funds that will occur;
  - (b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;
  - (c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
  - (d) Local government project contributions in the form of infrastructure improvements, and others;
  - (e) Projects that encourage ownership, management, and other project-related responsibility opportunities;
  - (f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;
  - (g) The applicant has the demonstrated ability, stability and resources to implement the project;
  - (h) Projects which demonstrate serving the greatest need;
  - (i) Projects that provide housing for persons and families with the lowest incomes;
  - (j) Projects serving special needs populations which are under statutory mandate to develop community housing;
  - (k) Project location and access to employment centers in the region or area;
- ((and))

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in section 2 of this act; and

(m) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for mentally ill persons that are consistent with a regional support network six-year capital and operating plan.

**NEW SECTION. Sec. 10.** Sections 1 through 7 of this act shall constitute a new chapter in Title 50 RCW.

Passed the House March 11, 1994.

Passed the Senate March 11, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 4

[Senate Bill 6055]

### COUNTY ELECTED OFFICIALS SALARIES INCREASED

AN ACT Relating to counties; and amending RCW 36.17.020.

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

**Sec. 1.** RCW 36.17.020 and 1991 c 363 s 52 are each amended to read as follows:

The county legislative authority of each county is authorized to establish the salaries of the elected officials of the county. One-half of the salary of each prosecuting attorney shall be paid by the state. The annual salary of a county elected official shall not be less than the following:

(1) In each county with a population of one million or more: Auditor, clerk, treasurer, sheriff, members of the county legislative authority, and coroner, eighteen thousand dollars; assessor, nineteen thousand dollars; and prosecuting attorney, thirty thousand three hundred dollars;

(2) In each county with a population of from two hundred ten thousand to less than one million: Auditor, seventeen thousand six hundred dollars; clerk, seventeen thousand six hundred dollars; treasurer, seventeen thousand six hundred dollars; sheriff, nineteen thousand five hundred dollars; assessor, seventeen thousand six hundred dollars; prosecuting attorney, twenty-four thousand eight hundred dollars; members of the county legislative authority, nineteen thousand five hundred dollars; and coroner, ((~~sixteen~~)) seventeen thousand ((~~five~~)) six hundred dollars;

(3) In each county with a population of from one hundred twenty-five thousand to less than two hundred ten thousand: Auditor, sixteen thousand dollars; clerk, sixteen thousand dollars; treasurer, sixteen thousand dollars; sheriff, seventeen thousand six hundred dollars; assessor, sixteen thousand dollars; prosecuting attorney, twenty-four thousand eight hundred dollars;

members of the county legislative authority, seventeen thousand six hundred dollars; and coroner, ~~((eight))~~ sixteen thousand ~~((eight hundred))~~ dollars;

(4) In each county with a population of from seventy thousand to less than one hundred twenty-five thousand: Auditor, fourteen thousand nine hundred dollars; clerk, fourteen thousand nine hundred dollars; treasurer, fourteen thousand nine hundred dollars; assessor, fourteen thousand nine hundred dollars; sheriff, fourteen thousand nine hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, fourteen thousand nine hundred dollars; and coroner, ~~((five))~~ fourteen thousand ~~((five))~~ nine hundred dollars;

(5) In each county with a population of from forty thousand to less than seventy thousand: Auditor, thirteen thousand eight hundred dollars; clerk, thirteen thousand eight hundred dollars; treasurer, thirteen thousand eight hundred dollars; assessor, thirteen thousand eight hundred dollars; sheriff, thirteen thousand eight hundred dollars; prosecuting attorney, twenty-three thousand seven hundred dollars; members of the county legislative authority, thirteen thousand eight hundred dollars; and coroner, ~~((four))~~ thirteen thousand eight hundred dollars;

(6) In each county with a population of from eighteen thousand to less than forty thousand: Auditor, twelve thousand one hundred dollars; clerk, twelve thousand one hundred dollars; treasurer, twelve thousand one hundred dollars; sheriff, twelve thousand one hundred dollars; assessor, twelve thousand one hundred dollars; prosecuting attorney in such a county in which there is no state university or college, fourteen thousand three hundred dollars; in such a county in which there is a state university or college, sixteen thousand five hundred dollars; and members of the county legislative authority, eleven thousand dollars;

(7) In each county with a population of from twelve thousand to less than eighteen thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, thirteen thousand two hundred dollars; and members of the county legislative authority, nine thousand four hundred dollars;

(8) In each county with a population of from eight thousand to less than twelve thousand: Auditor, ten thousand one hundred dollars; clerk, ten thousand one hundred dollars; treasurer, ten thousand one hundred dollars; assessor, ten thousand one hundred dollars; sheriff, eleven thousand two hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, seven thousand dollars;

(9) In each county with a population of from five thousand to less than eight thousand: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; assessor, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars;

prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars;

(10) In each other county: Auditor, nine thousand one hundred dollars; clerk, nine thousand one hundred dollars; treasurer, nine thousand one hundred dollars; sheriff, ten thousand five hundred dollars; assessor, nine thousand one hundred dollars; prosecuting attorney, nine thousand nine hundred dollars; and members of the county legislative authority, six thousand five hundred dollars.

Passed the Senate March 14, 1994.

Passed the House March 14, 1994.

Approved by the Governor April 2, 1994.

Filed in Office of Secretary of State April 2, 1994.

## CHAPTER 5

[Engrossed Second Substitute Senate Bill 6347]

### HIGH TECHNOLOGY BUSINESSES—TAX CREDITS AND DEFERRALS

AN ACT Relating to the taxation of high-technology businesses; providing business and occupation tax credits for qualifying research and development expenditures; providing tax deferrals for research and development and pilot scale manufacturing facilities; adding a new section to chapter 82.04 RCW; adding a new chapter to Title 82 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 high-wage, high-skilled jobs are vital to the economic health of the state's citizens, and that targeted tax incentives will encourage the formation of high-wage, high-skilled jobs. The legislature also finds that tax incentives should be subject to the same rigorous requirements for efficiency and accountability as are other expenditure programs, and that tax incentives should therefore be focused to provide the greatest possible return on the state's investment.

The legislature also finds that high-technology businesses are a vital and growing source of high-wage, high-skilled jobs in this state, and that the high-technology sector is a key component of the state's effort to encourage economic diversification. However, the legislature finds that many high-technology businesses incur significant costs associated with research and development and pilot scale manufacturing many years before a marketable product can be produced, and that current state tax policy discourages the growth of these companies by taxing them long before they become profitable.

The legislature further finds that stimulating growth of high-technology businesses early in their development cycle, when they are turning ideas into marketable products, will build upon the state's established high-technology base, creating additional research and development jobs and subsequent manufacturing facilities.

For these reasons, the legislature hereby establishes a program of business and occupation tax credits for qualified research and development expenditures.

The legislature also hereby establishes a tax deferral program for high-technology research and development and pilot scale manufacturing facilities. The legislature declares that these limited programs serve the vital public purpose of creating employment opportunities in this state. The legislature further declares its intent to create a contract within the meaning of Article I, section 23 of the state Constitution as to those businesses that make capital investments in consideration of the tax deferral program established in this chapter.

**NEW SECTION.** **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) In computing the tax imposed under this chapter, a credit is allowed for each person whose research and development spending during the year in which the credit is claimed exceeds 0.92 percent of the person's taxable amount during the same calendar year.

(2) The credit is equal to the greater of the amount of qualified research and development expenditures of a person or eighty percent of amounts received by a person other than a public educational or research institution in compensation for the conduct of qualified research and development, multiplied by the rate of 0.515 percent in the case of a nonprofit corporation or nonprofit association engaging within this state in research and development, and 2.5 percent for every other person.

(3) Any person entitled to the credit provided in subsection (2) of this section as a result of qualified research and development conducted under contract may assign all or any portion of the credit to the person contracting for the performance of the qualified research and development.

(4) The credit, including any credit assigned to a person under subsection (3) of this section, shall be taken against taxes due for the same calendar year in which the qualified research and development expenditures are incurred. The credit, including any credit assigned to a person under subsection (3) of this section, for each calendar year shall not exceed the lesser of two million dollars or the amount of tax otherwise due under this chapter for the calendar year.

(5) Any person taking the credit, including any credit assigned to a person under subsection (3) of this section, whose research and development spending during the calendar year in which the credit is claimed fails to exceed 0.92 percent of the person's taxable amount during the same calendar year shall be liable for payment of the additional taxes represented by the amount of credit taken together with interest, but not penalties. Interest shall be due at the rate provided for delinquent excise taxes retroactively to the date the credit was taken until the taxes are paid. Any credit assigned to a person under subsection (3) of this section that is disallowed as a result of this section may be taken by the person who performed the qualified research and development subject to the limitations set forth in subsection (4) of this section.

(6) Any person claiming the credit, and any person assigning a credit as provided in subsection (3) of this section, shall file an affidavit form prescribed by the department which shall include the amount of the credit claimed, an



estimate of the anticipated qualified research and development expenditures during the calendar year for which the credit is claimed, an estimate of the taxable amount during the calendar year for which the credit is claimed, and such additional information as the department may prescribe.

(7) A person claiming the credit shall agree to supply the department with information necessary to measure the results of the tax credit program for qualified research and development expenditures.

(8) The department shall use the information required under subsection (7) of this section to perform three assessments on the tax credit program authorized under this section. The assessments will take place in 1997, 2000, and 2003. The department shall prepare reports on each assessment and deliver their reports by September 1, 1997, September 1, 2000, and September 1, 2003. The assessments shall measure the effect of the program on job creation, the number of jobs created for Washington residents, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

(9) For the purpose of this section:

(a) "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership as determined under rules adopted by the department, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the credit provided in this section. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(b) "Qualified research and development" shall have the same meaning as in section 3 of this act.

(c) "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(d) "Taxable amount" means the taxable amount subject to the tax imposed in this chapter required to be reported on the person's combined excise tax returns during the year in which the credit is claimed, less any taxable amount for which a credit is allowed under RCW 82.04.440.

(10) This section shall expire December 31, 2004.

**NEW SECTION. Sec. 3.** Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Advanced computing" means technologies used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

(2) "Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

(3) "Applicant" means a person applying for a tax deferral under this chapter.

(4) "Biotechnology" means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, or to transform biological systems into useful processes and products or to develop microorganisms for specific uses.

(5) "Department" means the department of revenue.

(6) "Electronic device technology" means technologies involving microelectronics; semiconductors; electronic equipment and instrumentation; radio frequency, microwave, and millimeter electronics; and optical and optic-electrical devices; and data and digital communications and imaging devices.

(7) "Eligible investment project" means that portion of an investment project which either initiates a new operation, or expands or diversifies a current operation by expanding, renovating, or equipping an existing facility with costs in excess of twenty-five percent of the true and fair value of the facility prior to improvement. The lessor or owner of the qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(8) "Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, and the development of alternative energy sources.

(9) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction or improvement of the project.

(10) "Person" has the meaning given in RCW 82.04.030.

(11) "Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of biotechnology, advanced computing, electronic device technology, advanced materials, and environmental technology other than for commercial sale. As used in this subsection, "commercial sale" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(12) "Qualified buildings" means structures used for pilot scale manufacturing or qualified research and development, including plant offices and other

facilities that are an essential or an integral part of a structure used for pilot scale manufacturing or qualified research and development. If a building is used partly for pilot scale manufacturing or qualified research and development, and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(13) "Qualified machinery and equipment" means fixtures, equipment, and support facilities that are an integral and necessary part of a pilot scale manufacturing or qualified research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, invention, or similar property; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; vats, tanks, and fermenters; operating structures; and all other equipment used to control, monitor, or operate the machinery. For purposes of this chapter, qualified machinery and equipment must be either new to the taxing jurisdiction of the state or new to the certificate holder, except that used machinery and equipment may be treated as qualified machinery and equipment if the certificate holder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(14) "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(15) "Recipient" means a person receiving a tax deferral under this chapter.

(16) "Research and development" means activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the federal food and drug administration under chapter 21, C.F.R., as amended. The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

**NEW SECTION.** Sec. 4. Application for deferral of taxes under this chapter must be made before initiation of construction of, or acquisition of equipment or machinery for the investment project. The application shall be made to the department in a form and manner prescribed by the department. The application shall contain information regarding the location of the investment

project, the applicant's average employment in the state for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, time schedules for completion and operation, and other information required by the department. The department shall rule on the application within sixty days.

Applicants for deferral of taxes under this chapter shall agree to supply the department with nonproprietary information necessary to measure the results of the tax deferral program for high-technology research and development and pilot scale manufacturing facilities. The department shall use the information to perform three assessments on the tax deferral program authorized under sections 1 and 3 through 9 of this act. The assessments will take place in 1997, 2000, and 2003. The department shall prepare reports on each assessment and deliver their reports by September 1, 1997, September 1, 2000, and September 1, 2003. The assessments shall measure the effect of the program on job creation, the number of jobs created for Washington residents, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

**NEW SECTION. Sec. 5.** (1) Except as provided in subsection (2) of this section, the department shall issue a sales and use tax deferral certificate for state and local sales and use taxes due under chapters 82.08, 82.12, and 82.14 RCW on each eligible investment project.

(2) No certificate may be issued for an investment project that has already received a deferral under chapters 82.60 or 82.61 RCW or this chapter, except that an investment project for qualified research and development that has already received a deferral may also receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing.

(3) This section shall expire July 1, 2004.

**NEW SECTION. Sec. 6.** (1) Except as provided in subsections (2) and (3) of this section, a recipient shall begin paying taxes deferred under this chapter on December 31st of the third calendar year after the date certified by the department as the date on which the investment project has been operationally completed, or on December 31st of the fifth calendar year after the certificate was granted, whichever is sooner. Subsequent annual payments shall be due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	15%
3	20%
4	25%
5	30%

(2) A recipient that is an institution recognized as a comprehensive cancer center by the national cancer institute before April 20, 1983, shall begin paying taxes deferred under this chapter on December 31st of the third calendar year after the date certified by the department as the date on which the investment project has been operationally completed, or on December 31st of the fifth calendar year after the certificate was granted, whichever is sooner. Subsequent annual payments shall be due on December 31st of the following four years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	12%
3	14%
4	28%
5	36%

(3) A recipient of a tax deferral on an investment project for qualified research and development on, or pilot scale manufacturing of, a drug, device, or biological product that requires licensing by the federal food and drug administration under chapter 21, C.F.R., as amended, shall begin paying taxes deferred under this chapter on December 31st of the fifth calendar year after the date certified by the department as the date on which the investment project has been operationally completed, or on December 31st of the seventh calendar year after the certificate was granted, whichever is sooner. Subsequent annual payments shall be due on December 31st of the following five years with amounts of payment scheduled as follows:

Repayment Year	% of Deferred Tax Repaid
1	10%
2	10%
3	15%
4	20%
5	20%
6	25%

(4) The department may authorize an accelerated repayment schedule upon request of the recipient.

(5) Interest may not be charged on taxes deferred under this chapter for the period of deferral, although all other penalties and interest applicable to delinquent excise taxes may be assessed and imposed for delinquent payments under this chapter. The debt for deferred taxes will not be extinguished by insolvency or other failure of the recipient.

**NEW SECTION. Sec. 7.** If an investment project is used for purposes other than qualified research and development or pilot scale manufacturing prior to repayment of the taxes deferred under this chapter, the amount of the deferred taxes outstanding for the project is immediately due.

NEW SECTION. Sec. 8. Chapter 82.32 RCW applies to the administration of this chapter.

NEW SECTION. Sec. 9. Applications and other information received by the department under this chapter are not confidential and are subject to disclosure.

NEW SECTION. Sec. 10. The department shall perform an assessment of the results of the tax credit and tax deferral programs authorized under chapters 82.60, 82.61, and 82.62 RCW and deliver a report on the assessment to the governor and the legislature by September 1, 1996. The assessments shall measure the effect of the programs on job creation, the number of jobs created for Washington residents, company growth, the introduction of new products, the diversification of the state's economy, growth in research and development investment, the movement of firms or the consolidation of firms' operations into the state, and such other factors as the department selects.

NEW SECTION. Sec. 11. Sections 1 and 3 through 9 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 12. This act shall take effect January 1, 1995.

Passed the Senate March 14, 1994.

Passed the House March 14, 1994.

Approved by the Governor April 4, 1994.

Filed in Office of Secretary of State April 4, 1994.

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**CHAPTER 6**

[Engrossed Substitute Senate Bill 6244]

**OPERATING BUDGET, SUPPLEMENTAL, 1993-1995**

AN ACT Relating to fiscal matters; amending RCW 28A.310.020, 22.09.830, 70.146.080, and 90.56.510; amending 1993 sp.s. c 24 ss 101, 102, 103, 104, 106, 107, 109, 111, 112, 113, 114, 117, 118, 119, 120, 116, 121, 123, 124, 125, 217, 218, 127, 128, 129, 131, 132, 133, 134, 135, 138, 139, 140, 141, 142, 143, 145, 146, 147, 149, 150, 152, 308, 151, 318, 316, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 301, 302, 303, 304, 305, 306, 307, 309, 310, 311, 312, 313, 314, 315, 317, 401, 402, 501, 502, 504, 505, 507, 509, 512, 513, 515, 516, 517, 518, 521, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 614, 615, 616, 617, 618, 619, 710, 701, 703, 705, 706, 716, 721, 801, 802, 803, and 805 (uncodified); adding new sections to 1993 sp.s. c 24 (uncodified); repealing 1993 sp.s. c 24 s 613 (uncodified); repealing chapter 28A.695 RCW; making appropriations; and declaring an emergency.

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

**PART I**

**GENERAL GOVERNMENT**

Sec. 101. 1993 sp.s. c 24 s 101 (uncodified) is amended to read as follows:

**FOR THE HOUSE OF REPRESENTATIVES**

General Fund Appropriation . . . . . \$ ~~((46,189,000))~~  
45,515,000

The appropriation in this section is subject to the following conditions and limitations: \$250,000 is provided solely for the fiscal accountability project.

Sec. 102. 1993 sp.s. c 24 s 102 (uncodified) is amended to read as follows:

**FOR THE SENATE**

General Fund Appropriation . . . . .	\$	((35,457,000))
		<u>34,998,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$250,000 is provided solely for the fiscal accountability project.

NEW SECTION. Sec. 103. A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**FOR THE WASHINGTON PERFORMANCE PARTNERSHIP COUNCIL**

General Fund Appropriation . . . . .	\$	500,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for implementation of Engrossed Senate Bill No. 6601 (Washington performance partnership).

Sec. 104. 1993 sp.s. c 24 s 103 (uncodified) is amended to read as follows:

**FOR THE LEGISLATIVE BUDGET COMMITTEE**

General Fund Appropriation . . . . .	\$	((2,067,000))
		<u>2,426,000</u>
Health Services Account Appropriation . . . . .	\$	565,000
TOTAL APPROPRIATION . . . . .	\$	((2,632,000))
		<u>2,991,000</u>

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

(1) \$565,000 of the health services account—state appropriation is provided solely for studies required by Engrossed Second Substitute Senate Bill No. 5304. If that bill is not enacted by June 30, 1993, the health services account appropriation shall lapse.

(2) \$18,800 is provided for the legislative budget committee to review the department of veterans affairs, the Washington soldiers' home, and the Washington veterans' home to implement Engrossed House Bill No. 1437 to the extent permitted by the amount provided.

(3) \$250,000 of the general fund appropriation is provided solely for K-12 fiscal studies subject to the following conditions and limitations:

(a) The legislative budget committee shall execute an interagency agreement with the institute for public policy for a study of special education. Prior to conducting the study, the institute shall develop a study design in consultation with the fiscal committees of the legislature and the superintendent of public instruction. The institute shall determine the resources necessary to conduct the study based on the criteria established in the study design. To the greatest extent possible, the institute shall obtain commitments for resources from public agencies that are able to provide assistance for the study.





programs for grades 9 through 12 funded through the K-12 apportionment formula of the budget. The study shall address: The historical reasons for the staffing ratios contained in the state apportionment formula; the changes in vocational instruction in the information and technology age; and the instructional requirements of integrated vocational and academic programs, traditional vocational programs, and skill center programs. The study shall include an analysis of state funding and school district expenditures in a sample of school districts engaged in the different types of vocational education programs. The study shall be submitted to the office of financial management and the fiscal committees of the legislature by December 15, 1994.

(2) \$125,000 of the general fund—state appropriation is provided for the legislative evaluation and accountability program (LEAP) committee to establish a public and private sector work group to plan the transition of the department of social and health services' automated client eligibility system (ACES) to a more flexible architecture or open computer system. The LEAP committee shall report the results of the work group's efforts to the fiscal committees of the legislature and the office of financial management by December 1, 1994. The work group's efforts may be examined by the LEAP committee for applicability to other issues related to state-wide information services delivery.

Sec. 106. 1993 sp.s. c 24 s 106 (uncodified) is amended to read as follows:

**FOR THE JOINT LEGISLATIVE SYSTEMS COMMITTEE**

General Fund Appropriation . . . . . \$ ((9,480,000))  
9,572,000

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be transferred to the legislative systems revolving fund.

Sec. 107. 1993 sp.s. c 24 s 107 (uncodified) is amended to read as follows:

**FOR THE STATUTE LAW COMMITTEE**

General Fund Appropriation . . . . . \$ ((5,952,000))  
5,833,000

The appropriation in this section is subject to the following conditions and limitations: \$10,000 is provided for the expenses of the law revision commission under chapter 1.30 RCW.

Sec. 108. 1993 sp.s. c 24 s 109 (uncodified) is amended to read as follows:

**FOR THE SUPREME COURT**

General Fund Appropriation . . . . . \$ ((9,769,000))  
9,586,000

The appropriation in this section is subject to the following conditions and limitations: The supreme court is directed to fully recover all costs, including staff costs, associated with publishing supreme court opinions by the reporter of decisions.

Sec. 109. 1993 sp.s. c 24 s 111 (uncodified) is amended to read as follows:

**FOR THE COURT OF APPEALS**

General Fund Appropriation . . . . .	\$	((17,117,000))
		<u>17,484,000</u>

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

(1) \$83,000 is provided solely for an additional judicial position for the court of appeals, division II, district 3, as authorized under chapter 420, Laws of 1993 (Engrossed Substitute House Bill No. 1734).

(2) \$52,000 is provided solely for an additional judicial position for the court of appeals, division II, district 2, as authorized under chapter 420, Laws of 1993 (Engrossed Substitute House Bill No. 1734).

(3) \$232,000 is provided solely for costs associated with the additional judicial positions funded in subsections (1) and (2) of this section.

(4) Subsection (1) of this section shall take effect November 1, 1994.

(5) Subsection (2) of this section shall take effect February 1, 1995.

Sec. 110. 1993 sp.s. c 24 s 112 (uncodified) is amended to read as follows:

**FOR THE COMMISSION ON JUDICIAL CONDUCT**

General Fund Appropriation . . . . .	\$	((1,013,000))
		<u>1,067,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$68,000 is provided solely to implement Substitute Senate Bill No. 6111 (ethics for state officers and employees). If the bill is not enacted by June 30, 1994, the amount provided shall lapse.

Sec. 111. 1993 sp.s. c 24 s 113 (uncodified) is amended to read as follows:

**FOR THE ADMINISTRATOR FOR THE COURTS**

General Fund Appropriation . . . . .	\$	((24,418,000))
		<u>24,029,000</u>

Public Safety and Education Account

Appropriation . . . . .	\$	36,102,000
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Judicial Information System Account

Appropriation . . . . .	\$	((655,000))
		<u>5,277,000</u>

Health Services Account Appropriation . . . . . \$

117,000

Drug Enforcement and Education Account

Appropriation . . . . .	\$	6,510,000
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TOTAL APPROPRIATION . . . . .	\$	((67,802,000))
		<u>72,035,000</u>

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

(1) ~~(\$24,107,000)~~ \$23,699,000 of the general fund appropriation is provided solely for the superior court judges program. Of this amount, a maximum of \$20,000 may be used to reimburse county superior courts for

superior court judges temporarily assigned to other counties that are experiencing large and sudden surges in criminal filings. Reimbursement shall be limited to per diem and travel expenses of assigned judges.

(2) \$110,000 of the general fund appropriation is provided solely to implement Substitute Senate Bill No. 5753 (judgeship for Cowlitz county). If the bill is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(3) \$6,510,000 of the drug enforcement and education account appropriation is provided solely for the continuation of treatment-alternatives-to-street-crimes (TASC) programs in Pierce, Snohomish, Clark, King, Spokane, and Yakima counties.

(4) The administrator for the courts shall provide data processing support to the department of social and health services' division of juvenile rehabilitation in the allocation of grant moneys to local governments.

(5) \$9,820,000 of the public safety and education account is provided solely for the indigent appeals program.

(6) \$50,000 of the general fund appropriation is provided solely to implement the racial disproportionality study recommendations in Engrossed Substitute House Bill No. 1966.

(7) \$170,000 of the general fund appropriation is provided solely to implement sections 3 and 11 of Engrossed Substitute House Bill No. 1084 (jury source list). The office of the administrator for the courts shall allocate funds to the counties and the department of information services for the purposes of implementing these sections.

(8) \$117,000 of the health services account appropriation is provided solely for the implementation of section 418 of Engrossed Second Substitute Senate Bill No. 5304 (medical malpractice review). If section 418 of the bill is not enacted by June 30, 1993, the health services account appropriation shall lapse.

Sec. 112. 1993 sp.s. c 24 s 114 (uncodified) is amended to read as follows:

**FOR THE OFFICE OF THE GOVERNOR**

General Fund—State Appropriation . . . . .	\$	<del>((6,138,000))</del>
		<u>6,015,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$186,000 is provided solely for mansion maintenance.

Sec. 113. 1993 sp.s. c 24 s 117 (uncodified) is amended to read as follows:

**FOR THE SECRETARY OF STATE**

General Fund Appropriation . . . . .	\$	<del>((8,049,000))</del>
		<u>8,549,000</u>
Archives and Records Management Account		
Appropriation . . . . .	\$	<del>((3,160,000))</del>
		<u>3,150,000</u>
Personnel Service Account Appropriation . . . . .	\$	<del>((612,000))</del>
		<u>600,000</u>

TOTAL APPROPRIATION . . . \$ ~~((41,821,000))~~  
12,299,000

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

(1) \$~~((703,532))~~ 702,505 of the general fund appropriation is provided solely to reimburse counties for the state's share of primary and general election costs and the costs of conducting mandatory recounts on state measures.

(2) \$~~((2,095,465))~~ 2,507,000 of the general fund appropriation is provided solely for the verification of initiative and referendum petitions, maintenance of related voter registration records, legal advertising of state measures, and the publication and distribution of the voters and candidates pamphlet.

(3) The appropriation from the archives and records management account assumes that at least \$250,000 will be received from local governments during the second year of the biennium to cover the costs to the state archives program of locally generated archival materials.

(4) The productivity board shall not approve any payment to, or agreement with, state employees under the teamwork incentive program under chapter 41.60 RCW unless the board determines that all expenditures savings or revenue increases recognized under the teamwork incentive program award are attributable exclusively to participating employees. Awards under the teamwork incentive program shall not exceed two thousand five hundred dollars per participating employee.

**Sec. 114.** 1993 sp.s. c 24 s 118 (uncodified) is amended to read as follows:  
**FOR THE GOVERNOR'S OFFICE OF INDIAN AFFAIRS**

General Fund Appropriation . . . . . \$ ~~((297,000))~~  
300,000

**Sec. 115.** 1993 sp.s. c 24 s 119 (uncodified) is amended to read as follows:  
**FOR THE COMMISSION ON ASIAN-AMERICAN AFFAIRS**

General Fund Appropriation . . . . . \$ ~~((336,000))~~  
338,000

**Sec. 116.** 1993 sp.s. c 24 s 120 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER**

General Fund Appropriation . . . . . \$ 4,990,000  
 Motor Vehicle Account Appropriation . . . . . \$ 44,000  
 State Treasurer's Service Fund Appropriation . . . . . \$ ~~((9,976,000))~~  
9,776,000  
 TOTAL APPROPRIATION . . . . . \$ ~~((40,020,000))~~  
14,810,000

The appropriations in this section are subject to the following conditions and limitations: (1) \$~~((284,000))~~ 127,000 of the state treasurer's service account appropriation is provided solely for the information systems project known as

"upgrade mainframe." Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$4,990,000 of the general fund—state appropriation is provided solely for the state treasurer to contract with a financial institution for the establishment and administration of an escrow account. Funds in the account shall be disbursed subject to the following conditions and limitations:

(a) The financial institution shall disburse funds to a nonprofit organization designated by the office of financial management to produce gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance. Nonprofit organizations eligible for designation must be formed solely for the purpose of providing gavel-to-gavel television coverage of state government deliberations and other events of state-wide significance and must have received a determination of a tax exempt status under section 501(c)(3) of the federal internal revenue code. The office of financial management may require applicants to submit a four-year financial plan, a feasibility plan, an engineering plan, and a schedule of equipment needs. By May 2, 1994, the office of financial management shall designate a qualified nonprofit organization to receive disbursements from the account. The designation shall cover the period for which funds are provided.

(b) Disbursements shall be made quarterly beginning January 1, 1995, at the request of the nonprofit organization, not to exceed \$1,750,000 in fiscal year 1995, increased by three percent per year thereafter.

(c) Beginning January 1996, the designated 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) Placement and operation of equipment within legislative facilities shall be subject to terms and conditions established by both houses of the legislature and ratified by a two-thirds vote of both houses of the legislature by concurrent resolution.

(e) Disbursement of these funds from the account to the nonprofit organization is contingent upon the nonprofit organization receiving commitments for, or the actual receipt of, \$500,000, in cash or in kind, to procure the equipment necessary to carry out the functions of the designated nonprofit organization. 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 appropriation in this subsection (2).

(f) No portion of any funds disbursed pursuant to this subsection may be used, directly or indirectly, for any of the following purposes:

(i) Attempting to influence: (A) 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 (B) the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency;

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- (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.

**Sec. 117.** 1993 sp.s. c 24 s 116 (uncodified) is amended to read as follows:  
**FOR THE PUBLIC DISCLOSURE COMMISSION**

General Fund Appropriation . . . . .	\$	((1,989,000))
		<u>2,178,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$64,000 is provided solely for implementation of a program to provide public electronic access to records maintained by the public disclosure commission pursuant to Second Substitute Senate Bill No. 6426 (electronic access). The funds shall not be expended until the program is reviewed by the department of information services to ensure compatibility with other state information systems.

**Sec. 118.** 1993 sp.s. c 24 s 121 (uncodified) is amended to read as follows:  
**FOR THE STATE AUDITOR**

General Fund—State Appropriation . . . . .	\$	20,000
General Fund—Federal Appropriation . . . . .	\$	((158,000))
		<u>155,000</u>
Motor Vehicle Fund Appropriation . . . . .	\$	((334,000))
		<u>327,000</u>
Municipal Revolving Fund Appropriation . . . . .	\$	24,454,000
Auditing Services Revolving Fund Appropriation . . . . .	\$	((12,018,000))
		<u>11,778,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((36,984,000))</b>
		<u>36,734,000</u>

The appropriations in this section are subject to the following conditions and limitations: ((+)) Audits of school districts by the division of municipal corporations shall include a finding regarding the accuracy of student enrollment data and the experience and education of the district’s certificated instructional staff reported to the superintendent of public instruction for the purposes of allocation of state funding.

**Sec. 119.** 1993 sp.s. c 24 s 123 (uncodified) is amended to read as follows:  
**FOR THE ATTORNEY GENERAL**

General Fund—State Appropriation . . . . .	\$	((5,918,000))
		<u>6,005,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,632,000
Health Services Account Appropriation . . . . .	\$	175,000
Public Safety and Education Account Appropriation . . . . .	\$	1,249,000
Legal Services Revolving Fund Appropriation . . . . .	\$	((96,950,000))
		<u>96,341,000</u>

<del>((Motor Vehicle Fund Appropriation</del> . . . . .	<del>\$</del>	<del>748,000))</del>
New Motor Vehicle Arbitration Account		
Appropriation . . . . .	\$	1,784,000
<u>State Investment Board Expense Account</u>		
<u>Appropriation</u> . . . . .	<u>\$</u>	<u>4,000,000</u>
TOTAL APPROPRIATION . . . . .	\$	(( <del>108,456,000</del> ))
		<u>111,186,000</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 and support 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 shall include, at a minimum, the following information with each bill sent to agencies receiving legal services: (a) The number of hours and cost of attorney services provided during the billing period; (b) the number of hours and cost of support staff services provided during the billing period; (c) attorney general overhead and central support costs charged to the agency for the billing period; (d) direct legal costs, such as filing and docket fees, charged to the agency for the billing period; and (e) other costs charged to the agency for the billing period. If requested by an agency receiving legal services, the attorney general shall provide the information required in this subsection by program.

(3) \$1,249,000 of the public safety and education account appropriation and \$406,000 of the general fund—state appropriation are provided solely for the attorney general’s criminal litigation unit.

(4) The attorney general shall, in conjunction with the various state hearings boards, develop recommendations for more cost-efficient processing of administrative appeals and report such recommendations to appropriate committees of the legislature by November 15, 1993.

(5) The attorney general shall, in conjunction with state agencies, examine the efficiencies of consolidating support services within the office of the attorney general and report recommendations for consolidation to the office of financial management by April 1, 1994.

(6) \$175,000 of the health services account appropriation and \$350,000 of the legal services revolving fund appropriation are provided solely for anti-trust activities required by Engrossed Second Substitute Senate Bill No. 5304 (health care reform). If the bill is not enacted by June 30, 1993, the amounts provided in this subsection shall lapse.

(7) \$4,000,000 from the state investment board expense account appropriation is provided solely for attorney general costs and related expenses in aggressively pursuing litigation related to real estate investments on behalf of the state investment board. To the maximum extent possible, attorney general staff

shall be used in pursuing this litigation. The attorney general shall report to the appropriate committees of the legislature regarding litigation expenses and progress and the need for a 1995 supplemental appropriation by December 1, 1994.

(8) The legislature recognizes the need for the attorney general to offer competitive salaries in order to retain experienced legal staff. The attorney general shall submit a report to the legislative fiscal committees by December 1, 1994, comparing the compensation paid by the attorney general's office to other public and private agencies and firms.

(9) The attorney general shall develop recommendations, after consultation with the various state hearings boards, for cost-efficient implementation of alternative dispute resolution and report such recommendations to the appropriate committees of the legislature by December 1, 1994.

(10) \$205,000 of the general fund—state appropriation is provided solely for implementation of Substitute Senate Bill No. 6111 (executive ethics board). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

**Sec. 120.** 1993 sp.s. c 24 s 124 (uncodified) is amended to read as follows:  
**FOR THE ECONOMIC AND REVENUE FORECAST COUNCIL**

General Fund Appropriation . . . . .	\$	((815,000))
		818,000

**Sec. 121.** 1993 sp.s. c 24 s 125 (uncodified) is amended to read as follows:  
**FOR THE OFFICE OF FINANCIAL MANAGEMENT**

General Fund—State Appropriation . . . . .	\$	((19,575,000))
		19,437,000
General Fund—Federal Appropriation . . . . .	\$	918,000
Motor Vehicle Fund Appropriation . . . . .	\$	109,000
Health Services Account Appropriation . . . . .	\$	250,000
TOTAL APPROPRIATION . . . . .	\$	((20,852,000))
		20,714,000

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

~~((3))~~ (1) The office of financial management shall evaluate the extent to which state employees could receive more efficient and less expensive service, as well as increased flexibility and return on their investments, from a deferred compensation program contracted with a private organization, and shall report its findings and recommendations to appropriate committees of the legislature by December 1, 1993.

~~((4))~~ (2) The efficiency commission shall undertake studies to determine the most effective means of delivering services currently provided by the state printer ~~((and the department of general administration's central stores)).~~

~~((5)) \$50,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1372 (state program evaluations).~~



If the bill is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

~~(6))~~ (3) \$100,000 of the general fund—state appropriation is provided solely for an interim task force as provided for by Engrossed Substitute House Bill No. 2054 (civil service reform).

(4) \$100,000 of the general fund—state appropriation is provided solely to examine the feasibility of establishing a state-wide central facility authority to coordinate and manage the construction and use of state facilities, including leased facilities. The results of the study shall be reported to the appropriate committees of the legislature by January 10, 1995.

\*Sec. 122. 1993 sp.s. c 24 s 217 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT**

General Fund—State Appropriation . . . . .	\$	<del>((86,244,000))</del>
		<u>89,550,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((185,242,000))</del>
		<u>182,029,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	624,000
Public Safety and Education Account Appropriation . . .	\$	8,402,000
Building Code Council Account Appropriation . . . . .	\$	1,068,000
Public Works Assistance Account Appropriation . . . . .	\$	1,192,000
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	3,908,000
Low Income Weatherization Account Appropriation . . .	\$	6,582,000
Washington Housing Trust Fund Appropriation . . . . .	\$	4,643,000
Enhanced 911 Account Appropriation . . . . .	\$	<del>((20,042,000))</del>
		<u>18,539,000</u>
Administrative Contingency Fund Appropriation . . . . .	\$	1,476,000
TOTAL APPROPRIATION . . . . .	\$	<del>((319,423,000))</del>
		<u>318,013,000</u>

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

~~((2))~~ (1) \$8,208,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in fiscal year 1994 as follows:

(a) \$3,630,255 to local units of government to continue existing local drug task forces;

(b) \$1,086,240 to the Washington state patrol for coordination, training, and task force expansion to unserved areas of the state;

(c) \$697,128 to the department of community development to continue the state-wide drug prosecution assistance program;

(d) \$93,000 to the department of community development to establish a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(e) \$279,000 to local units of government for urban projects. The distribution shall be made through a competitive grant process administered by the department;

(f) \$174,840 to the department of community development to establish the youth violence prevention and intervention project;

(g) \$214,830 to the department of community development for the state-wide drug offense indigent defense program;

(h) \$782,734 to the department of corrections for the expansion of correctional industries programs. It is the intent of the legislature that this program receive an equal amount of funding from the fiscal year 1995 drug control and system improvement formula grant program appropriation;

(i) \$479,000 to the department of community development for grant administration and program evaluation, monitoring, and reporting, pursuant to federal requirements;

(j) \$46,000 to the Washington state patrol for data collection; and

(k) \$410,400 to the office of financial management for the criminal history records improvement program.

(l) \$128,573 for continuation of the high impact offender prosecution project; and

(m) \$186,000 to the department of community development for allocation to public or private nonprofit groups or organizations with experience and expertise in the field of domestic violence, for the purpose of continuing existing domestic violence advocacy programs, providing legal and other assistance to victims and witnesses in court proceedings, and establishing new domestic violence advocacy programs.

~~((5))~~ (2) \$7,020,000 of the general fund—federal appropriation is provided solely for the drug control and system improvement formula grant program, to be distributed in fiscal year 1995 as follows:

(a) \$3,122,000 to local units of government to continue multijurisdictional drug task forces;

(b) \$934,000 to the Washington state patrol for coordination, technical assistance, and investigative and supervisory staff support for multijurisdictional narcotics task forces;

(c) \$430,000 to the department of community development to continue the state-wide drug prosecution assistance program;

(d) \$93,000 to the department of community development to continue a substance-abuse treatment in jails program, to test the effect of treatment on future criminal behavior;

(e) \$744,000 to the department of community development to continue the youth violence prevention and intervention projects;

(f) \$215,000 to the department of community development for the state-wide drug offense indigent defense program;

(g) \$673,000 to the department of corrections for the correctional industries programs;

(h) \$412,000 to the department of community development for grant administration and program evaluation, monitoring, and reporting, pursuant to federal requirements;

(i) \$46,000 to the Washington state patrol for data collection; and

(j) \$351,000 to the office of financial management for the criminal history records improvement program.

(3) In order to offset reductions in federal community services block grant funding for community action agencies, the department shall set aside ~~\$(2,400,000)~~ 4,800,000 of federal community development block grant funds for distribution to local governments for distribution to community action agencies state-wide.

~~((6))~~ (4) \$350,000 of the general fund—state appropriation is provided for financial assistance to local governments and nonprofit organizations to assist military dependent communities including, but not limited to Kitsap county, in diversifying their economies. In providing assistance, first priority shall be given to defense diversification and conversion projects which leverage additional federal funds.

~~((10) \$4,800,000)~~ (5) \$4,802,000 of the public safety and education account appropriation is provided solely for civil representation of indigent people.

~~((11))~~ (6) \$3,600,000 of the public safety and education account appropriation ~~(11)~~ and \$1,059,000 of the general fund—state appropriation are provided solely for the office of crime victim's advocacy and for sexual assault treatment services.

~~((12))~~ (7) \$8,268,000 of the general fund—state appropriation and \$41,610,000 of the general fund—federal appropriation are provided for grant administration and grant assistance as authorized by the president under the federal disaster assistance program. It is the intent of the legislature that the disaster assistance unit continue to be funded as disasters occur not on a permanent basis, and that staffing for the unit be kept to only the minimum number of positions necessary to administer the grants and meet other federal and state requirements.

(8) \$175,000 of the general fund—state appropriation is provided solely for the retired senior volunteer program.

(9) \$50,000 of the general fund—state appropriation is provided solely for a grant to Yakima county to study the import-export opportunities associated with expansion of the Yakima airport in conjunction with increased economic opportunities that result from central Washington's status as a foreign trade zone.

(10) \$755,000 of the general fund—state appropriation is provided solely for the long-term care ombudsman program. Of this amount, \$30,000 is

provided solely for a long-term care ombudsman in Kitsap county. The department shall ensure that not less than \$10,000 is provided for each of the fourteen long-term care regions for fiscal year 1995. The department shall ensure that from the total federal and state appropriations, not more than twenty-five percent or \$245,000, whichever is less, be expended on administration costs for the program. The department shall ensure that existing contracts in excess of \$10,000 be held harmless, and that funding be reallocated from the administration and training budgets. By November 1, 1994, the department shall report to the appropriate fiscal committees of the legislature on the allocation of funding for long-term care ombudsman services and make recommendations for changes in the distribution of funding.

(11) \$650,000 of the general fund—state appropriation is provided solely to increase the state's emergency preparedness and planning for catastrophic events.

(12) \$1,350,000 of the general fund—state appropriation is provided solely for grants for the development of programmatic environmental analysis prototypes consistent with the plans required under the growth management act. Within this amount the department shall make at least three grants not less than \$300,000. Not more than \$150,000 of this amount is provided for technical assistance to local governments. By December 1, 1994, the department shall report to the legislature on the status of grants awarded.

(13) If Senate Bill No. 6023 (transferring emergency management services) is enacted by June 30, 1994, funds appropriated in this section for the division of emergency management shall be transferred to the military department pursuant to section 8 of Senate Bill No. 6023.

(14) By November 25, 1994, the department shall report to the fiscal and education committees of the legislature on strategies that maximize the number of children served and, to the greatest extent practicable, preserve or improve program quality within existing resource constraints for the early childhood education assistance program. Strategies evaluated shall include, but not be limited to: (a) Increasing the student-to-staff ratio; (b) over-enrolling slots; (c) increasing the use of nonstate financial resources; (d) reducing the number of nonfour year old children served; (e) administrative program changes; and (f) partnerships with local providers. The department shall also evaluate the reliability of using federal census data to forecast the number of eligible four year old children. The department shall include estimated short-term and long-term savings and costs of each strategy.

(15) \$25,000 of the general fund—state appropriation is provided solely for a grant to the Seattle school district to conduct a community use planning study of the Sealth high school—Denny middle school field complex. The study shall include representatives from the Seattle school district, Seattle parks department, the business community, and local citizens groups.

\*Sec. 122 was partially vetoed, see message at end of chapter.

\*Sec. 123. 1993 sp.s. c 24 s 218 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF COMMUNITY DEVELOPMENT—FIRE PROTECTION POLICY BOARD.** ~~(\$4,865,000)~~ \$4,735,000 is appropriated to the department of community development for the purposes of the fire protection policy board. Of this amount, \$2,213,000 is from the general fund—state appropriation, \$1,750,000 is from the fire service training account appropriation, \$466,000 is from the state toxics control account appropriation, ~~(\$346,000)~~ \$216,000 is from the oil spill administration account appropriation, and \$90,000 is from the fire service trust account appropriation. All expenditures from these funds are subject to the approval of the fire protection policy board. In the event of an across-the-board reduction in general fund allotments under RCW 43.88.110, the percentage reduction in the general—state allotments to the fire protection policy board shall not exceed the percentage reduction to the department’s other general fund—state allotments.  
 \*Sec. 123 was vetoed, see message at end of chapter.

**Sec. 124.** 1993 sp.s. c 24 s 127 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF PERSONNEL**

Department of Personnel Service Fund

Appropriation . . . . .	\$	(+17,162,000)
		<u>16,616,000</u>

Higher Education Personnel Services Account

<u>Appropriation</u> . . . . .	\$	<u>1,898,000</u>
<u>TOTAL APPROPRIATION</u> . . . . .	\$	<u>18,514,000</u>

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

- (1) The department shall reduce its charge for personnel services to the lowest rate possible.
- (2) \$600,000 of the department of personnel service fund appropriation is provided solely for extended insurance benefits for permanent state employees separated through reduction-in-force. An eligible employee may receive a state subsidy of \$100 per month toward his or her insurance benefits purchased under the federal consolidated omnibus budget reconciliation act (COBRA) for a period not to exceed six months from the date of separation. The state health care authority shall administer the insurance benefits and the department shall pay the subsidy through interagency reimbursement, subject to the level of appropriation.
- (3) \$500,000 of the department of personnel service fund appropriation is provided solely for a career and employment transition program to assist permanent state employees who are separated due to reduction-in-force, including employee retraining, career counseling, and job placement services.
- (4) \$32,000 of the department of personnel service fund appropriation is provided solely for creation, printing, and distribution of the personal benefits statement for state employees.
- (5) From the department’s nonappropriated data processing account, the department shall prepare a feasibility study for the design and implementation of

a new human resource information system. Authority to expend funds for the feasibility study is conditioned on compliance with section 902 of this act.

(6) The department of personnel shall charge all administrative services costs incurred by the committee for deferred compensation for the deferred compensation program to the deferred compensation administrative account. The department and the committee shall develop an interagency agreement, to be approved by the office of financial management, before any billings to the committee commence. Department billings to the committee shall be for actual costs only.

(7) The appropriation from the higher education personnel services account shall be reduced by any amounts expended prior to the effective date of this act under section 613, chapter 24, Laws of 1993 sp. sess., which is repealed by this act.

(8) \$31,000 of the department of personnel service fund appropriation is provided for the employee exchange program with the Hyogo prefecture in Japan.

**NEW SECTION. Sec. 125. HIGHER EDUCATION PERSONNEL BOARD.** 1993 sp.s. c 24 s 613 is repealed.

**Sec. 126.** 1993 sp.s. c 24 s 128 (uncodified) is amended to read as follows:  
**FOR THE COMMITTEE FOR DEFERRED COMPENSATION**

Dependent Care Administrative Account Appropriation . . . . \$ 382,000

The appropriation in this section is subject to the following conditions and limitations: Pursuant to RCW 41.04.260, the committee for deferred compensation shall charge all administrative expenses incurred by the deferred compensation program, including data processing costs, to the deferred compensation administrative account.

**Sec. 127.** 1993 sp.s. c 24 s 129 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON STATE LOTTERY**

Lottery Administrative Account Appropriation . . . . . \$ ((19,745,000))  
19,350,000

Industrial Insurance Premium Refund Account

Appropriation . . . . . \$ 7,000  
TOTAL APPROPRIATION . . . . . \$ 19,357,000

**Sec. 128.** 1993 sp.s. c 24 s 131 (uncodified) is amended to read as follows:  
**FOR THE COMMISSION ON AFRICAN-AMERICAN AFFAIRS**

General Fund Appropriation . . . . . \$ ((271,000))  
273,000

**Sec. 129.** 1993 sp.s. c 24 s 132 (uncodified) is amended to read as follows:  
**FOR THE PERSONNEL APPEALS BOARD**

Department of Personnel Service Fund  
Appropriation . . . . . \$ ((1,268,000))  
1,438,000

**Sec. 130.** 1993 sp.s. c 24 s 133 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF RETIREMENT SYSTEMS—OPERATIONS**  
Department of Retirement Systems Expense Fund

Appropriation . . . . .	\$	((31,988,000))
		<u>31,840,000</u>

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

(1) \$3,530,000 is provided solely for information systems projects known by the following names or successor names: Support of member database, support of audit, and audit of member files. Authority to expend this amount is conditioned on compliance with section 902 of this act. The department shall report to the fiscal committees of the senate and house of representatives on the status of the member database project including an assessment of the savings the department is likely to achieve as a result of this project by January 15, 1994.

(2) \$1,136,000 is provided solely for the in-house design, development, and implementation of the information systems project known as the disbursement system. Authority to expend this amount is conditioned on compliance with section 902 of this act. The department shall report to the office of financial management on the status of this project by January 15, 1995.

(3) \$((404,000)) 295,550 is provided solely for the increased workload resulting from the Bowles decision.

(4) \$382,000 is provided solely for the temporary increased workload resulting from 1993 legislation providing for early retirement. If a bill providing for early retirement is not passed by June 30, 1993, this amount shall lapse.

(5) The appropriation contains sufficient funds to implement House Bill No. 2028 (restoration notification).

(6) The department shall adjust the retirement systems administrative rate during the 1993-95 biennium as necessary to provide for law enforcement officers' and fire fighters' retirement system employer funding of a study of LEOFF Plan I medical liabilities by the office of the state actuary.

(7) The department shall reduce its administrative charge rate from .22 percent to .17 percent for the 1993-95 biennium.

(8) \$108,450 is provided solely to implement Senate Bill No. 6143 (retirement service credit). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

**Sec. 131.** 1993 sp.s. c 24 s 134 (uncodified) is amended to read as follows:  
**FOR THE STATE INVESTMENT BOARD**  
State Investment Board Expense Account

Appropriation . . . . .	\$	((6,939,000))
		<u>7,233,000</u>

The appropriation in this section is subject to the following conditions and limitations: \$350,000 is provided solely for state investment board administrative expenses related to real estate litigation being conducted by the attorney general.

\*Sec. 132. 1993 sp.s. c 24 s 135 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF REVENUE**

General Fund Appropriation . . . . .	\$	((123,401,000))
		<u>122,221,000</u>
Timber Tax Distribution Account Appropriation . . . . .	\$	4,358,000
State Toxics Control Account Appropriation . . . . .	\$	((76,000))
		<u>74,000</u>
Solid Waste Management Account Appropriation . . . . .	\$	((90,000))
		<u>88,000</u>
Pollution Liability Reinsurance Trust Account Appropriation . . . . .	\$	((236,000))
		<u>231,000</u>
Vehicle Tire Recycling Account Appropriation . . . . .	\$	((128,000))
		<u>125,000</u>
Air Operating Permit Account Appropriation . . . . .	\$	36,000
State Oil Spill Administration Account Appropriation . . . . .	\$	((20,000))
		<u>16,000</u>
Litter Control Account Appropriation . . . . .	\$	((96,000))
		<u>94,000</u>
<u>Enhanced 911 Account Appropriation . . . . .</u>	<u>\$</u>	<u>85,000</u>
TOTAL APPROPRIATION . . . . .	\$	((128,441,000))
		<u>127,328,000</u>

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

(1) \$760,000 of the general fund appropriation is provided solely for the information systems project known as "revenue account management." Authority to expend this amount is conditioned on compliance with section 902 of this act.

(2) \$85,000 of the enhanced 911 account appropriation is provided solely to implement House Bill No. 2601 (911 excise tax study). If House Bill No. 2601 or substantially similar legislation, is not enacted by June 30, 1994, this appropriation shall lapse.

(3) \$100,000 of the general fund—state appropriation is provided solely to conduct a study of businesses that receive tax incentives, in accordance with Engrossed Second Substitute Senate Bill No. 5468. If Engrossed Second Substitute Senate Bill No. 5468, or substantially similar legislation, is not enacted by June 30, 1994, this funding will lapse.

\*Sec. 132 was partially vetoed, see message at end of chapter.

Sec. 133. 1993 sp.s. c 24 s 138 (uncodified) is amended to read as follows:

**FOR THE UNIFORM LEGISLATION COMMISSION**

General Fund Appropriation . . . . .	\$	((47,000))
		<u>55,000</u>



**Sec. 134.** 1993 sp.s. c 24 s 139 (uncodified) is amended to read as follows:  
**FOR THE OFFICE OF MINORITY AND WOMEN'S BUSINESS ENTERPRISES**

Minority and Women's Business Revolving Fund Account

Appropriation . . . . .	\$	((2,103,000))
		<u>2,098,000</u>

**\*Sec. 135.** 1993 sp.s. c 24 s 140 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF GENERAL ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	((393,000))
		<u>387,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,306,000
General Fund—Private/Local Appropriation . . . . .	\$	392,000
Risk Management Account Appropriation . . . . .	\$	((2,246,000))
		<u>2,200,000</u>
State Capitol Vehicle Parking Account		
Appropriation . . . . .	\$	((740,000))
		<u>738,000</u>
Motor Transport Account Appropriation . . . . .	\$	((41,024,000))
		<u>11,177,000</u>
Air Pollution Control Account Appropriation . . . . .	\$	((449,000))
		<u>114,000</u>
General Administration Facilities and Services		
Revolving Fund Appropriation . . . . .	\$	((21,356,000))
		<u>21,183,000</u>
Central Stores Revolving Account <u>Appropriation</u> . . . . .	\$	((4,285,000))
		<u>3,941,000</u>
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>59,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((41,891,000))</b>
		<u>41,497,000</u>

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

- (1) The department shall develop a consolidated travel contract with a single best bidder state-wide or best bidders within regions to allow agencies to participate in a rebate on processing and handling costs of booking travel, lodging, and rental vehicle services.
- (2) \$870,000 of the motor transport account appropriation is provided solely for replacement of motor vehicles through the state treasurer's financing contract program under chapter 39.94 RCW. The department may acquire new motor vehicles only to replace and not to increase the number of motor vehicles within the department's fleet.

(3) \$154,000 of the risk management account appropriation is provided solely for the acquisition of a commercial software package to identify and analyze risk exposure and to administer the tort claims revolving fund and the self insurance liability fund.

(4) \$200,000 of the general administration facilities and services revolving fund appropriation is provided solely for security for the capitol's west campus area.

(5) \$252,000 of the general administration facilities and services revolving fund appropriation is provided solely for administration and provision of the volunteer capitol campus tours program.

~~(6) (\$25,000 of the air pollution control account appropriation is provided solely for the purpose of hiring one full-time equivalent employee to develop procurement specifications consistent with the requirements of RCW 43.19.570, the national energy policy act of 1992 and, to the extent possible, with the procurement specifications of other states. If matching funds are not provided by the alternative fuels industry by July 1, 1993, the amount provided in this subsection shall lapse)~~ \$160,000 of the motor transport account appropriation is provided solely to replace vehicles purchased under the treasurer's financing contract program that have been demolished by vehicular accident before the expiration of the contract.

(7) With the exception of the reductions to the office of state procurement, the reductions in this section are intended to be the result of management and operational efficiencies and will not result in a reduced level of direct service to clients, increased delegation or transfer of work to clients, or increased rates for services provided in nonappropriated activities or on a reimbursable basis to clients.

(8) \$1,000 of the industrial insurance premium refund account appropriation is provided solely for the Washington school director's association.

(9) \$171,000 of the general administration facilities and services revolving fund is provided solely to support current planning for state-wide collocation efforts.

\*Sec. 135 was partially vetoed, see message at end of chapter.

Sec. 136. 1993 sp.s. c 24 s 141 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF INFORMATION SERVICES**

<u>General Fund Appropriation</u> . . . . .	\$	400,000
Data Processing Revolving Fund Appropriation . . . . .	\$	((3,510,000))
		<u>3,440,000</u>
<u>TOTAL APPROPRIATION</u> . . . . .	\$	<u>3,840,000</u>

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

(1) \$400,000 of the nonappropriated data processing revolving fund shall be provided for development and operation of a video telecommunications center. The center shall be financially self-supporting and shall not receive any support

from any state sources other than dedicated service fees specifically related to the use of the center.

(2) The department shall spend up to \$75,000 from the non-appropriated data processing revolving fund to design and construct a campus fiber optic system.

(3) The department shall provide a toll-free telephone number and operator service staff for the general public to call for information about state agencies. The department may provide such staff, equipment and facilities as are necessary for this purpose. The director shall adopt rules to fix terms and charges for these services. All state agencies and the legislature shall participate in the information program and shall reimburse the department of information services in accordance with rules established by the director. The department shall also provide conference calling services for state and other public agencies on a fee-for-service basis.

(4) \$400,000 of the general fund—state appropriation is provided solely for costs related to the televising of state government deliberations.

(a) The department shall contract with the nonprofit corporation designated by the office of financial management under section 116(2) of this act for the following services and subject to the following terms and conditions:

(i) \$200,000 is provided solely to connect the legislative building, the temple of justice, the John A. Cherberg building, and the John L. O'Brien building with optical fiber;

(ii) \$50,000 is provided solely to remodel the Dawley building to accommodate the office and production space for the designated nonprofit corporation; and

(iii) \$50,000 is provided solely for construction necessary to access microwave transmission to eastern Washington of the signal produced by the designated nonprofit corporation; and

(b) \$100,000 is provided solely to pay for the direct costs of producing interactive hearings over the Washington interactive teleconferencing system. These hearings shall be linked to the public television system provided for in section 116(2) of this act to broadcast the hearings to the general public. Expenditures for the production of interactive hearings must be approved by the administrative committees of both the house of representatives and the senate and may not exceed a total of fifty thousand dollars in any single year.

**Sec. 137.** 1993 sp.s. c 24 s 142 (uncodified) is amended to read as follows:  
**FOR THE INSURANCE COMMISSIONER**

Insurance Commissioner's Regulatory Account

Appropriation . . . . .	\$	<del>((18,206,000))</del>
		<u>18,301,000</u>
General Fund—Federal Appropriation . . . . .	\$	104,000
TOTAL APPROPRIATION . . . . .	\$	<del>((18,310,000))</del>
		<u>18,405,000</u>

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

(1) \$890,000 of the insurance commissioner's regulatory account appropriation is provided solely to implement health care reform. ~~((If Engrossed Second Substitute Senate Bill No. 5304 (health care reform) is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.))~~

(2) The insurance commissioner shall obtain the approval of the department of information services for any feasibility plan for proposed technology improvements.

Sec. 138. 1993 sp.s. c 24 s 143 (uncodified) is amended to read as follows:

**FOR THE BOARD OF ACCOUNTANCY**

Certified Public Accountants' Account

Appropriation . . . . .	\$	<del>((1,202,000))</del>
		<u>1,214,000</u>

Sec. 139. 1993 sp.s. c 24 s 145 (uncodified) is amended to read as follows:

**FOR THE HORSE RACING COMMISSION**

Horse Racing Commission Fund Appropriation . . . . .	\$	<del>((4,876,000))</del>
		<u>4,778,000</u>

The appropriation in this section is subject to the following conditions and limitations: None of this appropriation may be used for the purpose of certifying Washington-bred horses under RCW 67.16.075.

Sec. 140. 1993 sp.s. c 24 s 146 (uncodified) is amended to read as follows:

**FOR THE LIQUOR CONTROL BOARD**

Liquor Revolving Fund Appropriation . . . . .	\$	<del>((111,231,000))</del>
		<u>110,657,000</u>

Industrial Insurance Premium Refund Account

<u>Appropriation</u> . . . . .	\$	<u>132,000</u>
<u>TOTAL APPROPRIATION</u> . . . . .	\$	<u>110,789,000</u>

The appropriations in this section ~~((is))~~ are subject to the following conditions and limitations: The liquor control board shall conduct a study that identifies possible savings in contracting outbound freight with a single or small number of carriers. The board shall report to the director of financial management and the fiscal committees of the legislature by September 1, 1994, on the findings of the study, including documentation of cost savings.

Sec. 141. 1993 sp.s. c 24 s 147 (uncodified) is amended to read as follows:

**FOR THE UTILITIES AND TRANSPORTATION COMMISSION**

Public Service Revolving Fund Appropriation . . . . .	\$	<del>((29,239,000))</del>
		<u>28,793,000</u>

Grade Crossing Protective Fund Appropriation . . . . .	\$	<del>((320,000))</del>
		<u>220,000</u>

TOTAL APPROPRIATION . . . . .	\$	<del>((29,559,000))</del>
		<u>29,013,000</u>

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

Subject to commission approval, no more than \$250,000 of the public service revolving fund appropriation may be spent to assist the legislature and the governor in studying the current statutes and administrative procedures for ~~((the optimum future capability for voice, video,))~~ telecommunications and information services in Washington state.

(2) \$50,000 of the public service revolving fund appropriation is provided solely for a study of the commission's regulation of water companies. The study shall include a review of the commission's current regulatory approach, existing challenges, and recommendations for a new regulatory strategy. The commission shall report to the governor and the appropriate committees of the legislature by November 15, 1994.

Sec. 142. 1993 sp.s. c 24 s 149 (uncodified) is amended to read as follows:

**FOR THE MILITARY DEPARTMENT**

General Fund—State Appropriation . . . . .	\$	<del>((8,365,000))</del>
		<u>8,198,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((8,850,000))</del>
		<u>8,669,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	186,000
TOTAL APPROPRIATION . . . . .	\$	<del>((17,401,000))</del>
		<u>17,053,000</u>

Sec. 143. 1993 sp.s. c 24 s 150 (uncodified) is amended to read as follows:

**FOR THE PUBLIC EMPLOYMENT RELATIONS COMMISSION**

General Fund Appropriation . . . . .	\$	<del>((1,771,000))</del>
		<u>3,348,000</u>
<del>((Employment Relations Account Appropriation . . . . .</del>	<del>\$</del>	<del>2,637,000</del>
TOTAL APPROPRIATION . . . . .	\$	<del>4,408,000))</del>

The appropriation in this section is subject to the following conditions and limitations: The office of financial management, in consultation with appropriate house of representatives and senate policy and fiscal committees, shall devise a plan for funding the public employment relations commission, either in whole or in part, through local funds and other funding sources beginning in fiscal year 1996.

Sec. 144. 1993 sp.s. c 24 s 152 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS**

Securities Regulation Fund Appropriation . . . . .	\$	<del>((3,031,000))</del>
		<u>3,281,000</u>
<u>Mortgage Brokers Account Appropriation . . . . .</u>	<u>\$</u>	<u>187,000</u>
TOTAL APPROPRIATION . . . . .	\$	<u>3,468,000</u>

~~((The appropriation in this section is subject to the following conditions and limitations: If Substitute Senate Bill No. 5270, or substantially similar~~

legislation, creating a department of financial institutions is not enacted by July 1, 1993, the securities regulation fund appropriation shall be null and void and the department of licensing general fund state appropriation shall be increased by \$3,031,000.))

\*Sec. 145. 1993 sp.s. c 24 s 308 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF TRADE AND ECONOMIC DEVELOPMENT**

General Fund—State Appropriation . . . . .	\$	<del>((25,026,000))</del>
		<u>25,167,000</u>
General Fund—Federal Appropriation . . . . .	\$	458,000
General Fund—Local Appropriation . . . . .	\$	40,000
Marketplace Account Appropriation . . . . .	\$	150,000
Motor Vehicle Fund Appropriation . . . . .	\$	582,000
Public Facilities Construction Loan Revolving		
Account Appropriation . . . . .	\$	238,000
Litter Control Account Appropriation . . . . .	\$	<del>((3,310,000))</del>
		<u>3,303,000</u>
State Convention/Trade Center Account		
Appropriation . . . . .	\$	3,975,000
Solid Waste Management Account Appropriation . . . . .	\$	<del>((701,000))</del>
		<u>689,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((34,480,000))</del></b>
		<b><u>34,602,000</u></b>

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

~~((3))~~ (1) The department shall evaluate the progress of the forest products industry's transition into value-added manufacturing and report its findings to the appropriate legislative fiscal and policy committees by September 30, 1994. The report shall recommend strategies for sustaining the effort to increase value-added manufacturing in Washington while decreasing the reliance on state funding.

~~((5))~~ (2) The marketplace account is created in the state treasury to collect fees and expend funds necessary to implement RCW 43.31.524. Fees and other revenue collected by the marketplace program shall be placed in the marketplace account and may be expended only after appropriation by the legislature. The entire marketplace account appropriation is provided to support the department's marketplace program.

~~((6))~~ (3) The entire amount from the state convention and trade center account appropriation is provided solely for the Seattle/King county visitor and convention bureau for marketing and promoting the facilities and services of the convention center and the locale as a convention and visitor destination, and related activities. The department shall not expend more than is received from

revenue generated by the special excise tax deposited in the state convention and trade center operations account under RCW 67.40.090(3), less any amount specifically provided to the state convention and trade center under section 316 of this act. Projections and actual collections of such revenue shall be determined and updated by the department of revenue. The funds provided in this section are subject to enactment of a marketing agreement to be approved and administered by the state convention and trade center.

~~((7))~~ (4) \$1,000,000 of the general fund—state appropriation is provided to enhance the off-season tourism program.

~~((8))~~ (5) \$292,000 of the general fund—state appropriation and \$208,000 of the general fund—federal appropriation are provided for the local economic development capacity building initiative.

~~((10))~~ (6) \$50,000 of the general fund—state appropriation is provided for the department to work with the Tacoma world trade center for the purpose of assisting small and medium-sized businesses with export opportunities.

~~((11))~~ (7) Not more than \$774,000 of the general fund—state appropriation may be expended for the operation of the Pacific Northwest export assistance project. The department shall develop and implement a plan for assessing fees for services provided by the project. The amount provided in this subsection is contingent on the receipt of revenues equal to at least twenty-five percent of the expenditures for fiscal year 1995. It is the intent of the legislature that the revenues raised to defray the expenditures of this program will be increased to fifty percent of the expenditures in fiscal year 1996, seventy-five percent of the expenditures in fiscal year 1997, and beginning in fiscal year 1998, the legislature intends that this program will be fully self-supporting.

~~((12))~~ (8) \$40,000 of the general fund—state appropriation is provided to establish an overseas trade office to be located in the Russian far east. An additional \$40,000 of the general fund—state appropriation shall be held in reserve and shall be released only upon receipt of at least \$40,000 from the ports association or other public entities for the operation of the office. The office is expressly prohibited from accepting any gifts, contributions, or donations of private funds or assistance. It is also the legislature's intent that the trade office remain a publicly owned and operated office for the primary benefit of Russian and Washington state businesses.

~~((13))~~ (9) In implementing the appropriations set forth in this section, the department shall minimize disproportionate impacts on any programs.

(10) \$250,000 of the general fund—federal appropriation is provided for sections 5, 6, and 16 through 27 of chapter 512, Laws of 1993 (minority and women-owned businesses).

(11) \$30,000 of the general fund—state appropriation is provided solely for an economic analysis related to the construction and operation of a baseball sports facility in King county. The study shall include an analysis of the tax revenues generated as a result of the facility. Each dollar expended from the

appropriation in this subsection shall be matched by at least five dollars from nonstate sources expended for the same purpose.

(12) \$632,000 of the general fund—state appropriation is provided solely for the promotion of international trade.

(13) \$25,000 of the general fund—state appropriation is provided solely for the minority and women export assistance program.

(14) \$30,000 of the general fund—state appropriation is provided solely to implement Senate Bill No. 6146 (film and video production facility). If Senate Bill No. 6146 is not enacted by June 30, 1994, this appropriation shall lapse.

(15) \$725,000 of the general fund—state appropriation is provided solely for associate development organizations. Of this amount, \$525,000 is provided solely for timber-distressed counties. Each of the timber-distressed counties shall receive \$25,000.

(16) \$30,000 of the general fund—state appropriation is provided solely to implement Senate Bill No. 5698 (ISO-9000 standards). If Senate Bill No. 5698 is not enacted by June 30, 1994, this appropriation shall lapse.

\*Sec. 145 was partially vetoed, see message at end of chapter.

**Sec. 146.** 1993 sp.s. c 24 s 151 (uncodified) is amended to read as follows: **DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT.** On July 1, 1994, all appropriations and all conditions and limitations contained in sections 217 and 308 of this act shall be provided for the department of community, trade, and economic development. ~~((If Engrossed Substitute Senate Bill No. 5868 or substantially similar legislation creating a department of community, trade, and economic development is not enacted by July 1, 1994, this section shall have no effect.))~~ If either House Bill No. 2677 or Senate Bill No. 6345 or substantially similar legislation is enacted by the 1994 session of the legislature, then all appropriations and all conditions and limitations in this act shall be provided for the department of community, trade, and economic development on the date specified for the merger of the two departments in that legislation.

**Sec. 147.** 1993 sp.s. c 24 s 318 (uncodified) is amended to read as follows: **FOR THE GROWTH PLANNING HEARINGS BOARD**  
General Fund Appropriation . . . . . \$ ((3,028,000))  
2,968,000

**Sec. 148.** 1993 sp.s. c 24 s 316 (uncodified) is amended to read as follows: **FOR THE STATE CONVENTION AND TRADE CENTER**  
State Convention/Trade Center Account  
Appropriation . . . . . \$ ((49,471,000))  
20,251,000

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

(1) \$810,000 of the revenue generated by the special excise tax deposited in the state convention and trade center operations account under RCW



67.40.090(3) is provided solely for marketing the facilities and services of the convention center and for promoting the locale as a convention and visitor destination, and for related activities.

(2) \$1,000,000 of the state convention and trade center account appropriation is provided solely for the state's share of the following:

(a) The state convention and trade center in collaboration with the city of Seattle, is directed to prepare a development plan for a joint-use building which would include: (i) Uses for the city of Seattle; (ii) one hundred forty thousand square feet of new contiguous heavy load exhibit space with support structures including loading facilities, storage, access and exit ways, and mechanical and electrical spaces; and (iii) development costs to be shared by the city of Seattle and the convention center.

(b) At a minimum the plan shall include the following elements: (i) Financial feasibility; (ii) financing requirements for both the city and state; (iii) exploration of alternative funding and financing mechanisms; (iv) economic and civic impacts; (v) schematic designs; and (vi) alternative uses of the new building for the city. Any studies previously undertaken on uses of the expansion which are applicable may be incorporated in the proposed structure and shall be considered in developing the plan.

(c) Costs of the plan and related studies shall be shared by the state convention and trade center and the city of Seattle.

(d) A convention center expansion and city facilities task force is created. The purpose of the task force is to meet and consult with officials from the city of Seattle and the convention center. The task force shall review and evaluate the plan and prepare subsequent recommendations to the fiscal committees of the legislature. The task force shall submit its recommendations to the appropriate fiscal committees of the legislature on or before January 1, 1995. The task force shall be co-chaired by a member from the senate and a member from the house of representatives. Membership shall be composed as follows: (i) One member each from the majority and minority caucuses of the senate and the house of representatives; (ii) three members from the city of Seattle selected by the mayor; (iii) three members selected by the governor; and (iv) the director or the director's designee from the office of financial management.

**PART II  
HUMAN SERVICES**

**Sec. 201.** 1993 sp.s. c 24 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 . . . . .	\$	<del>((292,004,000))</del> 281,352,000
General Fund—Federal Appropriation . . . . .	\$	<del>((+93,407,000))</del> 216,172,000

Drug Enforcement and Education Account

Appropriation . . . . .	\$	3,722,000
TOTAL APPROPRIATION . . . . .	\$	((489,133,000))
		<u>501,246,000</u>

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

(1) \$854,000 of the drug enforcement and education account appropriation and \$300,000 of the general fund—state appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve 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 also shall 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.

(2) \$700,000 of the general fund—state appropriation and \$262,000 of the drug enforcement and education account appropriation are provided solely 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 have successfully performed under the existing pediatric interim care program.

(3) In the event that the department consolidates children’s services offices, the department shall ensure that services continue to be accessible to isolated communities.

(4) ~~(( \$14,984,000 of the general fund—state appropriation and \$14,632,000 of the general fund—federal appropriation are provided to establish a state child care block grant by July 1, 1994. The department shall develop a plan for administering the block grant which shall include: (a) A state wide distribution formula; (b) a block grant application process that encourages the cooperative efforts of local governments, resource and referral agencies, and other not for-profit organizations involved with child care; (c) recommendations about cost-effective ways to administer child care subsidies in rural areas of the state; and (d) recommendations for the percentage of the grant to be used for local administration. The plan shall be presented to the appropriate legislative committees by January 1, 1994.))~~ The department shall develop and implement a plan for removing categorical barriers to access for families needing departmental child care services. The plan shall be developed in consultation with the child care coordinating committee, and shall include strategies such as: (a) Co-location of child care eligibility workers with other relevant service providers

such as resource and referral agencies; (b) development of a uniform application form and process across programs; (c) cross-training of departmental and resource and referral agency child care staff; (d) development of parent brochures; and (e) increased coordination at the local level with child care and early childhood programs operated by other agencies and governmental jurisdictions. The department shall report to appropriate committees of the legislature on the plan and its implementation status by December 1, 1994.

(5) The department shall coordinate funding totaling \$400,000 from all available sources to initiate a residential teen welfare protection program in an urban county with a population over 550,000. The program shall be designed to improve employment and parenting skills of teenage mothers to reduce long-term welfare dependence. The department shall select a provider with experience in providing residential services to adolescent mothers and their infants.

(6) The family policy council under chapter 70.190 RCW shall establish procedures for locating appropriate counseling staff of participating agencies in public schools.

~~((8) \$8,792,000 of the general fund—state appropriation is provided solely to implement the following programs: \$385,000 of this amount is provided for the medical training project on the evaluation and care of child sexual abuse, \$4,784,000 of this amount is provided for contracts for domestic violence shelters and comprehensive domestic violence service planning, \$2,841,000 of this amount is provided for early identification and treatment of child sexual abuse, and \$782,000 of this amount is provided for sexual assault centers.))~~

(7) \$900,000 of the general fund—state appropriation, and \$225,000 of the general fund—federal appropriation, are provided solely to implement Engrossed Second Substitute Senate Bill No. 6255 (permanency planning for children). The department may transfer a portion of this amount to the legal services revolving fund for costs associated with implementation of this bill.

(8) \$2,142,000 of the general fund—state appropriation and \$1,858,000 of the general fund—federal appropriation are provided solely to fund prevention programs designed to address risk factors related to violent criminal acts by juveniles, child abuse and neglect, domestic violence, teen pregnancy and male parentage, suicide attempts, substance abuse, and dropping out of school. The legislature intends, through the appropriation of these funds, to address the underlying causes of violence and other at-risk behaviors of children and create an environment which promotes healthy behaviors and safe communities for children and their families.

The family policy council shall disburse funds under this subsection to community public health and safety networks who are in substantial compliance with chapter . . . , Laws of 1994 (Engrossed Second Substitute House Bill No. 2319; youth violence) as determined by the council by rule. Funds provided under this subsection shall only be available upon application of a network to the council. The application and plan shall demonstrate the effectiveness of the program in terms of reaching its goals, specify the risk factors to be addressed

and ameliorated, and provide clear and substantial evidence that additional funds will substantially improve the ability of the program to increase its effectiveness. In considering requests for funding under this section, the council may approve requests to:

(a) Provide technical assistance, planning grants, and grants of flexible funds to community public health and safety networks;

(b) Fund healthy family programs;

(c) Fund before- and after-school child care and therapeutic child care programs;

(d) Fund domestic violence programs;

(e) Fund safe schools/community programs; and

(f) Fund other services targeted at the risk factors specified in chapter . . . , Laws of 1994 (Engrossed Second Substitute House Bill No. 2319; youth violence).

**Sec. 202.** 1993 sp.s. c 24 s 203 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
JUVENILE REHABILITATION PROGRAM**

**(1) COMMUNITY SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((60,629,000))</del>
		<u>63,808,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((6,639,000))</del>
		<u>6,580,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	<del>((1,552,000))</del>
		<u>1,743,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((68,820,000))</del></b>
		<b><u>72,131,000</u></b>

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

(a) \$2,800,000 of the general fund—state appropriation is provided solely for consolidated juvenile services for youthful offenders. This does not constitute an ongoing funding commitment by the state.

(b) \$650,000 of the general fund—state appropriation is provided solely to implement Substitute Senate Bill No. 6593 (learning and life skills program). If the bill is not enacted by June 30, 1994, the amount provided in this subsection (1)(b) shall lapse.

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((56,655,000))</del>
		<u>68,563,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	<del>((940,000))</del>
		<u>826,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((57,595,000))</del></b>

69,389,000

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

(a) The division of juvenile rehabilitation shall submit a report to the appropriate policy and fiscal committees of the legislature by December 1, 1993, on proposals to implement early release and structured transition services for juvenile offenders.

(b) The department of general administration, in conjunction with the division of juvenile rehabilitation and other state agencies, shall evaluate and make recommendations on the future use of the Green Hill school and/or property as a state facility. The recommendations shall be submitted to the appropriate policy and fiscal committees of the legislature by December 1, 1993.

(3) PROGRAM SUPPORT

General Fund—State Appropriation . . . . .	\$	((2,926,000))
		<u>3,866,000</u>
General Fund—Federal Appropriation . . . . .	\$	156,000
<u>Charitable, Educational, Penal, and</u>		
<u>Reformatory Institutions</u>		
<u>Account Appropriation</u> . . . . .	<u>\$</u>	<u>300,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	((342,000))
		<u>265,000</u>
TOTAL APPROPRIATION . . . . .	\$	((3,424,000))
		<u>4,587,000</u>

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

(a) \$100,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1966 (racial disproportionality study recommendations).

(b) The charitable, educational, penal, and reformatory institutions account appropriation is provided for the development of a master plan for facilities, including state institutions, state-operated and contracted group homes, and the contracted or jointly operated use of local, county, or regional facilities.

(i) The master plan shall include:

(A) A forecast, in conjunction with the office of financial management, of future confinement and rehabilitation needs of juvenile offenders, including analysis of trends, demographics, and historical patterns, frequency and degree of violence, length of stay, custody level, recidivism, and the impact of current and anticipated legislation;

(B) An analysis of present facilities and their adequacy, including operational, designed, and emergency capacity, security, safety, infrastructure, program needs, code compliance, and operational costs per unit;

(C) An analysis of options and operating and capital costs to maximize the capacity and use of presently available facilities and to optimize programs therein;

(D) An analysis of projected future needs for facilities and operational programs, including educational and vocational programs operated by the appropriate educational entities, for at least the next six years, which addresses the priorities between institutions, group homes, and use of contracted or jointly operated local or regional beds, and the size, security level, target location, timing and operating and capital costs of any additional facilities;

(E) An analysis of the adequacy of present and planned local or regional capacity, the need for additional local or regional capacity, available local financing, delays in imposing sentences due to unavailable local facilities, and the feasibility of a state role in providing assistance to develop additional local or regional capacity;

(F) An analysis of the feasibility of increasing the state's use of local or regional beds and recommendations for any statutory, fiscal, or program changes needed to keep juvenile offenders sentenced for short terms in local or regional facilities; and

(G) An analysis of which existing or future facilities would best serve as state or regional juvenile offender basic training camps and the capital and operational requirements for their development.

(ii) Development of the master plan shall be done in consultation with county and local entities responsible for juvenile justice and with the appropriate policy and fiscal committees of the legislature.

(iii) A preliminary report on the master plan shall be submitted to the appropriate policy and fiscal committees of the legislature no later than December 1, 1994.

(iv) The division of juvenile rehabilitation shall begin efforts immediately to locate sites for additional facilities and may conduct predesign or undertake preliminary steps for site selection environmental impact statements. However, no funds shall be expended for acquisition, design, or construction of additional state institutional facilities until completion of the master plan and specific authorization by the legislature. It is the intent of the legislature to consider design and construction of additional facilities or other methods to increase capacity in the 1995-1997 biennium.

(c) The division of juvenile rehabilitation shall submit a report to the appropriate policy and fiscal committees of the legislature by December 1, 1994, on proposals to construct and operate juvenile facilities in this state at a cost of no more than the national average. The division shall identify statutory, policy, and personnel decisions that have caused this state to have higher construction and operating costs than the national average.

**(4) SPECIAL PROJECTS**

General Fund—Federal Appropriation . . . . . \$ 1,296,000

Sec. 203. 1993 sp.s. c 24 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 . . . . .	\$	<del>((239,529,000))</del>
		<u>239,460,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((168,680,000))</del>
		<u>166,309,000</u>
General Fund—Local Appropriation . . . . .	\$	9,000,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((417,209,000))</b></del>
		<u><b>414,769,000</b></u>

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

(a) \$4,618,000 of the general fund—state appropriation and \$5,409,000 of the general fund—federal appropriation are provided solely for additional children’s mental health services required in accordance with the medicaid early and periodic screening, diagnosis, and treatment program. By January 1, 1994, the secretary of social and health services shall issue practice guidelines to assist mental health regional support networks and providers determine the scope and duration of mental health services typically required by specific conditions for which mental health intervention is medically necessary.

(b) \$2,000,000 of the general fund—state appropriation, of which \$500,000 shall be from the 1993-95 current level allocation for regional support networks, and \$1,080,000 of the general fund—federal appropriation are provided solely for a risk pool fund to support a collaborative effort between the eastern Washington regional support networks and eastern state hospital. Moneys from this fund shall be expended as payments to regional support networks for reductions in usage of bed days at eastern state hospital, or, to the extent such reductions are not made, to cover resulting budget deficits at the hospital. The intended reductions in hospital bed days, the expected reductions in costs in the state hospitals, and the amount and timing of payments shall be specified in contracts negotiated between the department and the eastern Washington regional support networks. Money from this fund shall not be used to meet any operating deficits at eastern state hospital resulting from causes unrelated to a failure of the regional support networks to reduce bed day usage as specified in contracts.

(c) The secretary of social and health services shall allot to the mental health division funds appropriated to the division of medical assistance for voluntary community psychiatric hospitalizations. The amount transferred shall be the total projected expenditures for voluntary psychiatric hospitalizations in the 1993-95 biennium. The mental health division shall work with mental health regional support networks to design and implement improved prevention, crisis intervention, diversion, and other strategies for reducing avoidable psychiatric hospitalizations. Regional support networks that succeed in reducing voluntary and involuntary hospitalization costs below the baseline level forecast for their region shall receive bonus payments for their performance. The mental health division

shall seek approval from the federal government to include federal matching funds in the bonus payments under medicaid waivers.

(d) 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.

(e) \$560,000 of the general fund—state appropriation is provided solely to assist western Washington regional support networks in reducing the average daily population of western state hospital.

(f) The secretary of social and health services shall assure that any reductions in state grants to recover state payments subsequently reimbursed through federal sources are targeted to those providers at which federal recoveries will actually occur. The reductions shall not be spread on a formula basis across all providers and regional support networks.

(g) The department shall submit to the house of representatives appropriations committee and the senate ways and means committee by November 15, 1994, a report outlining the following: The ratio of state to local short term commitments, the number of clients receiving services, service types, service costs by type and per person served, and the method of measuring service delivery for each service type. The report shall be presented so that each quarter of the 1993-95 biennium and the 1991-93 biennium is identified separately, each regional support network is identified separately, costs are identified separately, and each service type is identified separately. Service types shall include at least residential programs, employment programs, and other service types that lead to normalizing activities.

(2) INSTITUTIONAL SERVICES

General Fund—State Appropriation . . . . .	\$	((146,577,000))
		<u>136,118,000</u>
General Fund—Federal Appropriation . . . . .	\$	((87,011,000))
		<u>99,320,000</u>
General Fund—Local Appropriation . . . . .	\$	42,498,000
<del>((Charitable, Educational, Penal and</del>		
<del>Reform Institutions Account Appropriation . . . . .</del>	<del>\$</del>	<del>3,000,000))</del>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	507,000
TOTAL APPROPRIATION . . . . .	\$	((279,593,000))
		<u>278,443,000</u>

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

(a) The mental health program at western state hospital shall continue to utilize labor provided by the Tacoma prerelease program of the department of corrections.

(b) From appropriations provided in this section and in section 208 of this act, the secretary of social and health services shall establish a consolidated,



privately-operated program specializing in the involuntary treatment of chemically dependent clients, and the voluntary treatment of mentally ill chemical abusers, on the grounds of the northern state multi-service center. In establishing this consolidated program with discrete treatment components, the secretary shall involve mental health and chemical dependency treatment providers, advocacy groups, and local system administrators in designing the program, developing its admission and discharge procedures, and selecting and monitoring the contractor.

(c) The secretary of social and health services shall phase out operation of the PORTAL program at the northern state multi-service center. In accomplishing this phase down, the secretary shall:

(i) Work with regional support networks, families and advocacy groups, and other community service providers to assure that appropriate community services are in place for people transitioning out of the PORTAL program; and

(ii) Develop and implement a transition plan for state employees dislocated by the phase down of the PORTAL program. The plan shall be tailored to the situations of individual workers and shall include strategies such as individual employment counseling through the departments of personnel and employment security, retraining and placement into other state jobs, placement of state employees with private contractors, and small business assistance.

~~((e) \$560,000 of the general fund—state appropriation is provided solely to assist western Washington regional support networks in reducing the average daily population of western state hospital.))~~

(d) The division is authorized to purchase goods and services for the state hospitals through alternative means and shall coordinate these efforts with the office of procurement services within the department of general administration.

(e) The secretary of social and health services shall develop with regional support networks a plan for reducing their utilization of the state mental hospitals during the 1995-97 biennium to, at least 90 beds, 60 from western state hospital and 30 from eastern state hospital. All expenditures from regional support network capital reserves which have been accumulated with state payments shall be contingent upon the regional support network's implementation of the plan.

(3) CIVIL COMMITMENT

General Fund Appropriation . . . . .	\$	5,718,000
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(4) SPECIAL PROJECTS

General Fund—State Appropriation . . . . .	\$	1,899,000
General Fund—Federal Appropriation . . . . .	\$	2,946,000
TOTAL APPROPRIATION . . . . .	\$	4,845,000

(5) PROGRAM SUPPORT

General Fund—State Appropriation . . . . .	\$	<del>((4,882,000))</del>
		<u>4,951,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,826,000))</del>
		<u>1,757,000</u>
TOTAL APPROPRIATION . . . . .	\$	6,708,000

\*Sec. 204. 1993 sp.s. c 24 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 . . . . .	\$	<del>((204,081,000))</del>
		<u>205,103,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((131,660,000))</del>
		<u>130,724,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((335,741,000))</del></b>
		<b><u>335,827,000</u></b>

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation . . . . .	\$	<del>((121,133,000))</del>
		<u>125,442,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((165,704,000))</del>
		<u>163,647,000</u>
General Fund—Local Appropriation . . . . .	\$	9,143,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((295,980,000))</del></b>
		<b><u>298,232,000</u></b>

**(3) PROGRAM SUPPORT**

General Fund—State Appropriation . . . . .	\$	<del>((5,665,000))</del>
		<u>5,673,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((971,000))</del>
		<u>963,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>6,636,000</b>

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

(a) The population of the state residential habilitation centers shall be reduced by at least 123 persons by January 1995. This shall be accomplished by providing appropriate community services for those residents who are most ready to move, and by closing the building and administration at Interlake School. In implementing this redeployment of resources, the secretary of social and health services shall assure that:

(i) No individual shall be moved from an institutional to a community setting until sufficient services and support arrangements are in place to assure the individual's health, safety, personal well-being, and continued growth and development on an ongoing basis;

(ii) The savings to general fund—state expenditures from the residential habilitation center consolidations shall exceed the additional costs of new community services for persons moving from the residential habilitation centers by at least \$1,200,000;

~~((iiv))~~ (iii) A transition plan is developed and implemented for state employees dislocated by the redeployment. The plan shall be tailored to the situations of individual workers and shall include strategies such as individual

employment counseling through the departments of personnel and employment security; retraining and placement into other state jobs; placement of state employees with private contractors; and assistance establishing private community service programs; and

~~((+))~~ (iv) A report is submitted to appropriate committees of the legislature by October 1, 1993, and at the beginning of each biennial quarter thereafter, on specific plans for accomplishing the goals of this subsection (4)(a), and their outcomes.

(b)(i) The number of persons receiving community residential services shall not be reduced below the end of fiscal year 1993 level, and shall be increased by the number of persons moving from residential habilitation centers; and

(ii) The benchmark wage and benefits rate for contracted community residential providers shall not be reduced below the January 1993 level~~((+))~~.

(c) In addition to slots needed to accommodate persons moving from ICF/MR and nursing facilities, the secretary shall seek federal approval to expand by at least ~~((500))~~ 750 the number of persons receiving services under federal medicaid home- and community-based services waivers. If the waiver request is not approved by the federal health care financing administration, the secretary is authorized to use up to ~~\$(15,000,000))~~ 18,000,000 of the general fund—state appropriation to develop intermediate care facilities for the mentally retarded, personal care, rehabilitative, and other services reimbursable under medicaid without a waiver of federal rules. The secretary shall report to the ways and means committee of the senate and the appropriations committee of the house of representatives by February 1, 1994, on the outcome of these efforts.

(d) The secretary shall report to appropriate committees of the legislature by January 1, 1994, on efforts to obtain federal approval to include living units at Fircrest school as group homes under medicaid home- and community-based services waivers.

(e) In developing employment support plans for individuals with developmental disabilities, counties shall utilize, for those who are programmatically eligible, social security work incentive programs such as plans for achieving self support (PASS) and impairment-related work expense (IRWE).

(f) Counties shall use a portion of the general fund—state appropriation for the implementation of working agreements with the vocational rehabilitation program to maximize the use of federal funding for vocational programs.

(g) ~~\$(2,210,000))~~ 1,935,000 of the general fund—state appropriation is provided solely for employment programs, or community access programs to the extent that the programs will lead to employment, for those persons who complete a high school curriculum during the 1993-95 biennium. Portions of this amount may be used for employment programs developed through the vocational rehabilitation program. Federal appropriations for this purpose are provided in the appropriations for the vocational rehabilitation program.

(h) The secretary of social and health services shall develop and implement a plan for increasing the efficiency of community residential

services funded under this act. The plan shall include specific strategies and timelines for (i) providing community residential services during 1995-97 for at least 220 adults who are presently not receiving a state-funded residential service; while (ii) reducing the cost of community residential services by at least \$2.9 million of the general fund—state appropriation below the level otherwise needed to continue current services in 1995-97.

\*Sec. 204 was partially vetoed, see message at end of chapter.

Sec. 205. 1993 sp.s. c 24 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 . . . . .	\$	((618,987,000))
		<u>629,313,000</u>
General Fund—Federal Appropriation . . . . .	\$	((738,027,000))
		<u>727,267,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	2,004,000
TOTAL APPROPRIATION . . . . .	\$	((1,359,018,000))
		<u>1,358,584,000</u>

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

(1) During the first quarter of the fiscal biennium, the department shall transfer recipients of the chore services program who require assistance with household tasks only to the volunteer chore services program. At least \$2,277,000 of the general fund—state appropriation shall be used solely for the volunteer chore services program.

(2) \$100,000 of the general fund—state appropriation and \$100,000 of the general fund—federal appropriation are provided solely for studying and developing a nursing home case mix reimbursement methodology. The department shall consult with the legislative budget committee in developing its recommendations.

(3) \$354,000 of the general fund—state appropriation and \$354,000 of the general fund—federal appropriation are provided solely to develop a management information system to collect and maintain information on home and community-based long-term care services and clients.

(4) \$180,000 of the general fund—state appropriation is provided solely for adult day health services for persons with AIDS. These services shall be provided through a state-only program by a single agency specializing in long-term care for persons with AIDS.

(5) \$150,000 of the general fund—state appropriation is provided solely for the purpose of accelerating the criminal background check process for employees of long-term care facilities, including reducing the turnaround time for nursing facilities licensed under chapter 18.51 RCW and carrying out in full the duties imposed on the department under section 14(2) of Engrossed Second Substitute House Bill No. 2154.

(6) The department shall submit recommendations to the house of representatives health care and appropriations committees and the senate health and human services and ways and means committees by November 15, 1994, on methods to reduce the growth in long term care expenditures to a level no greater than the fiscal growth factors established under Initiative 601. These recommendations shall be developed in collaboration with long term care consumer and provider group representatives, and shall include strategies such as: (a) Assuring that people receive the least costly level of hospital, nursing home, or community-based care consistent with their needs; (b) eliminating excessive and duplicative regulatory, monitoring, and paperwork requirements, to the extent allowed by federal regulations and consistent with quality care, including consideration of any recommendations developed pursuant to section 481, chapter 492, Laws of 1993; (c) increasing the extent to which care tasks can be performed by properly trained and supervised people other than licensed personnel; (d) providing nursing facility preplacement screening and discharge planning regardless of payment source; (e) selective contracting for medicaid funded long-term care services based on considerations of cost and quality; and (f) obtaining federal waivers to reduce the number of medicaid recipients served in nursing facilities relative to other types of long-term care.

**Sec. 206.** 1993 sp.s. c 24 s 207 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 INCOME ASSISTANCE PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((653,252,000))</del>
		<u>698,640,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((599,986,000))</del>
		<u>610,195,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((1,253,238,000))</del></b>
		<b><u>1,308,835,000</u></b>

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

(1) Payment levels in the programs for aid to families with dependent children, general assistance, and refugee assistance shall contain an energy allowance to offset the costs of energy. The allowance shall be excluded from consideration as income for the purpose of determining eligibility and benefit levels of the food stamp program to the maximum extent such exclusion is authorized under federal law and RCW 74.08.046. To this end, up to \$300,000,000 of the income assistance payments is so designated for exemptions of the following amounts:

Family size:	1	2	3	4	5	6	7	8 or more
Exemption:	\$55	71	86	102	117	133	154	170

(2) \$164,000 of the general fund—state appropriation and \$196,000 of the general fund—federal appropriation are provided solely to implement the comprehensive plan to coordinate services for homeless children and families.

AFDC families whose children are in short-term (less than ninety days) foster care shall retain their grants. In addition, AFDC shall be reactivated for families at risk of homelessness thirty days prior to family reunification for children placed in foster care for more than ninety days.

(3) \$644,000 of the general fund—state appropriation and \$712,000 of the general fund—federal appropriation are provided solely for the elimination of the one hundred hour rule for recipients of aid to families with dependent children—employable. This change shall take effect July 1, 1994, if the federal government has approved this amendment to the Title IV federal social security act state plan.

Sec. 207. 1993 sp.s. c 24 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 . . . . .	\$	((15,355,000))
		14,317,000
General Fund—Federal Appropriation . . . . .	\$	((65,475,000))
		65,548,000
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	((68,572,000))
		69,792,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((149,402,000))</b>
		149,657,000

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

(1) Up to \$304,000 of the general fund—federal appropriation is provided to enact sections 3, 4, and 5 of Engrossed Substitute House Bill No. 2026 (high risk pregnancies). These funds will be used to implement three pilot projects involving pretreatment drug and alcohol services for women of child-bearing age.

(2) From appropriations provided in this section and in section 204 of this act, the secretary of social and health services shall establish a consolidated, privately-operated program specializing in the involuntary treatment of chemically dependent clients, and the voluntary treatment of mentally ill chemical abusers, on the grounds of the northern state multi-service center. In establishing this consolidated program with discrete treatment components, the secretary shall involve mental health and chemical dependency treatment providers, advocacy groups, and local system administrators in designing the program, developing its admission and discharge procedures, and selecting and monitoring the contractor.

(3) \$50,000 of the general fund—state appropriation is provided solely to develop a protocol for integrating family planning practices into substance abuse treatment programs and to provide technical assistance on the protocol to ten treatment agencies throughout the state.

(4) \$9,544,000 of the total appropriation is provided solely for the grant programs for school districts and educational service districts set forth in RCW 28A.170.080 through 28A.170.100, including state support activities, as administered through the office of the superintendent of public instruction.

**Sec. 208.** 1993 sp.s. c 24 s 209 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 MEDICAL ASSISTANCE PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((1,167,705,000))</del>	<u>1,200,957,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((1,804,308,000))</del>	<u>1,791,792,000</u>
General Fund—Local Appropriation . . . . .	\$	<del>((361,996,000))</del>	<u>361,950,000</u>
Health Services Account Appropriation . . . . .	\$	<del>((54,777,000))</del>	<u>57,979,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((3,388,786,000))</del></b>	<b><u>3,412,678,000</u></b>

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

(1) Funding is provided in this section for the adult dental program for Title XIX categorically eligible and medically needy persons and to provide foot care services by podiatric physicians and surgeons.

(2) \$160,000 of the general fund—state appropriation and \$160,000 of the general fund—federal appropriation are provided solely for the prenatal triage clearinghouse to provide access and outreach to reduce infant mortality.

(3) The department shall contract for the services of private debt collection agencies to maximize financial recoveries from third parties where it is not cost-effective for the state to seek the recovery directly.

(4) \$3,128,000 of the general fund—state appropriation is provided solely for treatment of low-income kidney dialysis patients.

(5) \$~~((148,000))~~ 144,000 of the general fund—state appropriation is provided solely to continue the DECODE program.

(6) It is the intent of the legislature that Harborview medical center continue to be an economically viable component of the health care system and that the state's financial interest in Harborview medical center be recognized.

(7) \$~~((50,240,000))~~ 53,442,000 of the health services account—state appropriation and \$~~((61,404,000))~~ 58,202,000 of the general fund—federal appropriation are provided solely to expand medicaid eligibility to 200 percent of poverty for children through age 18, effective July 1, 1994. The appropriation in this subsection includes \$662,000 from the health services account—state and \$808,000 from general fund—federal to accelerate the implementation of managed care in the medicaid program. It also includes funds to administer the expanded caseload and to coordinate with the basic health plan. This subsection

includes funds for full coverage of children enrolled in the basic health plan and eligible for medicaid under eligibility standards in place July 1, 1993. It is the intent of the legislature that children covered through this expanded coverage shall be enrolled in managed care plans to the maximum extent possible. The department shall seek to expand its managed care waivers to require children funded through this subsection to enroll in the basic health plan or other managed care systems. The department shall create a special eligibility category for children covered by this eligibility expansion, so that expenditures, unit costs and individuals served may be reported consistently over time. The department shall also provide for consistent reporting on other medicaid children served through the basic health plan.

(8) \$644,000 of the health services account appropriation is provided solely for costs associated with the waiver application required by health care reform.

(9) \$1,693,000 of the health services account appropriation is provided solely to expand maternity care services previously supported through the department of health.

(10) \$100,000 of the general fund—state appropriation and \$800,000 of the general fund—federal appropriation are provided solely for one-time additional outreach efforts to extend family planning coverage to more women and to establish on-site family planning capabilities at the Spokane North community services office.

(11) \$400,000 of the general fund—state appropriation and \$400,000 of the general fund—federal appropriation are provided solely for transitioning social security income clients to the healthy options managed care program during the current biennium.

NEW SECTION. Sec. 209. A new section is added to chapter 24, Laws of 1993 sp.s. (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE ADMINISTRATION.** \$35,000 from the general fund—state and \$35,000 from the general fund—federal are appropriated for the purposes of examining selective state-wide contracting as a cost-saving measure. Items to be considered for selective state-wide contracting include, but are not limited to, prescription drugs, durable medical equipment, eyeglasses, and hearing aids. Selective contracts should be considered both as a way to provide a benchmark price in negotiating with managed care plans for the inclusion of particular services and as a way to supplement managed care plans unable to offer particular services. By December 1, 1994, the department shall report to the fiscal committees of the legislature the fiscal impact of selective state-wide contracting for those items examined.

NEW SECTION. Sec. 210. A new section is added to chapter 24, Laws of 1993 sp.s. (uncodified) to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MEDICAL ASSISTANCE ADMINISTRATION.** \$35,000 from the general



fund—state and \$35,000 from the general fund—federal are appropriated for the purposes of analyzing the current definition of medical necessity. The department shall consult with the office of financial management, the health services commission, relevant health care providers and bioethicists, and client advocacy groups to complete their analysis. No later than December 1, 1994, the department and the office of financial management and the health services commission shall report to the fiscal committees of the legislature the findings and fiscal implications of their analysis.

**Sec. 211.** 1993 sp.s. c 24 s 210 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 VOCATIONAL REHABILITATION PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((15,406,000))</del>
		<u>15,681,000</u>
General Fund—Federal Appropriation . . . . .	\$	68,237,000
<u>General Fund—Local Appropriation . . . . .</u>	<u>\$</u>	<u>2,127,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((83,643,000))</del>
		<u>86,045,000</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 mental health regional support networks and with community developmental disabilities programs to improve and expand employment opportunities for people with severe disabilities served by those local agencies. Of the funds appropriated in this section, \$7,859,000 of the general fund—federal appropriation is provided solely as match for ~~((state appropriations included in other sections of this act to implement these cooperative agreements))~~ the general fund—local appropriation included in this section.

(2) The division of vocational rehabilitation shall assure that individuals affected by reductions in the job support services (extended sheltered employment) program have access to services under the regular state and federal vocational rehabilitation program that will enable them to obtain and maintain ongoing competitive or supported employment.

(3) \$275,000 of the general fund—state appropriation and \$1,015,000 of the general fund—federal appropriation is provided solely for vocational rehabilitation services for individuals with severe disabilities who complete a high school curriculum during the 1993-95 biennium.

(4) Expenditure of funds appropriated in this section for the information systems project known as STARS is conditioned upon compliance with section 902, chapter 24, Laws of 1993 sp. sess.

**Sec. 212.** 1993 sp.s. c 24 s 211 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 ADMINISTRATION AND SUPPORTING SERVICES PROGRAM**

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General Fund—State Appropriation . . . . .	\$	((46,547,000))
		<u>45,744,000</u>
General Fund—Federal Appropriation . . . . .	\$	((37,420,000))
		<u>38,172,000</u>
TOTAL APPROPRIATION . . . . .	\$	((83,967,000))
		<u>83,916,000</u>

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

(1) The secretary of social and health services and the director of labor and industries shall report to the legislature by December 1, 1993, on strategies for reducing workers compensation costs in developmental disabilities, juvenile rehabilitation, and mental health facilities operated by the department of social and health services.

(2) The report shall identify the specific 1994-97 costs and savings associated with at least the following strategies for reducing workers compensation claims and costs: (a) Injury prevention strategies; (b) improved return to work efforts; (c) more effective claims management through designation of a specific claims unit in the department of labor and industries; and (d) more effective claims management through delegation of claims management responsibility to the department of social and health services.

(3) The report shall also address the projected costs and benefits of at least the following strategies for financing injury and claims reduction efforts: (a) Upfront loss control credits; (b) post-biennial charges for actual costs rather than the current three-year actuarially adjusted method; (c) revised case reserve policies; and (d) reducing the number of state employee risk classifications.

(4) The report shall be submitted to the committees on ways and means and labor and commerce of the senate, and to the committees on appropriations and commerce and labor of the house of representatives.

(5) The department shall enter an interagency agreement transferring \$100,000 to the human rights commission by August 1, 1993, to offset the cost of investigating claims filed with the commission by department employees and clients.

(6) The secretary of social and health services and the director of labor and industries shall negotiate and implement an upfront loss control discount as recommended in the agencies' January 1994 report to the legislature. The agreement shall identify: (a) Specific, measurable goals for reduced worker injuries and time-loss in the state developmental disabilities institutions and mental hospitals; (b) the actions that each agency will take to accomplish such reductions; and (c) the methods and frequency with which progress toward those goals shall be reported. By July 1, 1994, and every six months thereafter, the departments shall report to the appropriate fiscal and policy committees of the legislature on the status of the agreement and changes to date in injury and time-loss rates.

(7) The secretary shall develop and implement a plan for increasing the sensitivity and effectiveness with which the department implements the requirement that parents of developmentally disabled children in foster care contribute to the cost of their child's care. The plan shall be a coordinated effort of the divisions of children and family services, developmental disabilities, and support enforcement, and shall include strategies such as (a) providing parents with easy-to-understand brochures informing them of their rights and responsibilities; (b) providing training for advocacy and parent support groups on financial responsibility requirements and procedures; (c) designating specially-trained workers to manage collections for developmental disabilities cases; and (d) at the secretary's discretion, foregoing of federal reimbursement which would require unduly intrusive collection activities such as automatic wage attachments or collection for amounts owed prior to notification of financial responsibility.

(8) \$660,000 of the general fund—state appropriation is provided solely for a matching grant to assist united way of Pierce county with the purchase of the historic Sprague building in downtown Tacoma. The Sprague building acquisition will allow for consolidation of many human services activities and available space will be leased at below market rates. The united way of Pierce county shall provide space in the Sprague building for the department of social and health services at no charge.

(9) \$195,000 of the general fund—state appropriation is provided solely for a matching grant to assist the center for human services with purchasing a building in King county to house it's social services and educational programs. State matching funds are intended to reduce housing costs and will allow more local funding to be available for direct services to clients.

**Sec. 213.** 1993 sp.s. c 24 s 212 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 COMMUNITY SERVICES ADMINISTRATION PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((219,837,000))</del>
		<u>222,778,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((257,237,000))</del>
		<u>255,588,000</u>
Health Services Account Appropriation . . . . .	\$	793,000
TOTAL APPROPRIATION . . . . .	\$	<del>((477,867,000))</del>
		<u>479,159,000</u>

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

(1) ~~\$((8,953,000))~~ 12,110,000 of the general fund—state appropriation and ~~\$((21,683,000))~~ 17,454,000 of the general fund—federal appropriation are provided solely for the development of the automated client eligibility system. Authority to expend these funds is conditioned on compliance with section 902 of this act.

(2) The department shall distribute additional staff positions to community service offices to address increased workloads. In distributing the positions, the department shall ensure that additional staff are provided to the community service offices with the greatest workload in relation to current staff resources.

(3) \$793,000 of the health services account—state and \$969,000 of the general fund—federal appropriation are provided solely for the costs associated with expanding medicaid eligibility to 200 percent of poverty level for children through age 18, effective July 1, 1994.

(4) The department shall immediately develop mechanisms for the income assistance program, the medical assistance program, and community services administration to facilitate the enrollment in the federal supplemental security income program for disabled persons currently receiving aid to families with dependent children.

(5) \$611,000 of the general fund—state appropriation and \$611,000 of the general fund—federal appropriation are provided solely to (a) train community service office staff in the effective communication of the expectation that public assistance recipients will enter employment, (b) provide family planning and employment information and educational video programs in the community service office waiting rooms, and (c) hold community meetings and workshops to involve community members and clients in developing effective strategies for service delivery.

(6) \$1,697,000 of the general fund—state appropriation and \$1,997,000 of the general fund—federal appropriation are provided solely to implement provisions of Engrossed Second Substitute House Bill No. 2798 (public assistance reform) which provide for increased access to family planning in the community service offices, a system to track recipients who leave assistance having taken any job offered, coordination and planning of an evaluation of state-wide changes to public assistance which take effect July 1, 1995, and changes to the automated client eligibility system.

(7) \$750,000 of the general fund—federal appropriation is provided solely as matching funds for the administrative contingency fund appropriation in the employment security department to implement section 6 of Engrossed Second Substitute House Bill No. 2798 (public assistance reform).

(8) \$100,000 of the general fund—state appropriation and \$100,000 of the general fund—federal appropriation are provided solely for the Washington state institute of public policy to continue conducting, for one additional year, its longitudinal study of families receiving, or at risk of receiving, public assistance.

Sec. 214. 1993 sp.s. c 24 s 213 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
REVENUE COLLECTIONS PROGRAM**

General Fund—State Appropriation . . . . .	\$	<del>((35,763,000))</del>
		41,409,000
General Fund—Federal Appropriation . . . . .	\$	<del>((178,043,000))</del>
		<u>136,539,000</u>

General Fund—Local Appropriation . . . . .	\$	((280,000))
		<u>36,141,000</u>
TOTAL APPROPRIATION . . . . .	\$	((214,086,000))
		<u>214,089,000</u>

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

(1) \$415,000 of the general fund—state appropriation and \$139,000 of the general fund—federal appropriation are provided solely to implement Senate Bill No. 5723 (increased recovery from social service clients). If the bill is not enacted by June 30, 1993, the amounts provided in this subsection shall lapse.

(2) \$47,000 of the general fund—state appropriation is provided solely to implement House Bill No. 2492 (medicaid estate recovery). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

**Sec. 215.** 1993 sp.s. c 24 s 214 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—  
 PAYMENTS TO OTHER AGENCIES PROGRAM**

General Fund—State Appropriation . . . . .	\$	((30,935,000))
		<u>31,226,000</u>
General Fund—Federal Appropriation . . . . .	\$	((+1,724,000))
		<u>11,903,000</u>
TOTAL APPROPRIATION . . . . .	\$	((42,659,000))
		<u>43,129,000</u>

The appropriations in this section are subject to the following conditions and limitations: The department may transfer up to \$1,810,000 of the general fund—state appropriation and \$416,000 of the general fund—federal appropriation from its various programs to implement reductions related to the consolidated mail service.

**Sec. 216.** 1993 sp.s. c 24 s 215 (uncodified) is amended to read as follows:  
**FOR THE HEALTH ((CARE)) SERVICES COMMISSION**

Health Services Account—State Appropriation . . . . .	\$	((4,004,000))
		<u>4,053,000</u>
General Fund Appropriation . . . . .	\$	<u>180,000</u>
TOTAL APPROPRIATION . . . . .	\$	<u>4,233,000</u>

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

(1) \$49,000 of the health services account appropriation is provided solely for analyzing the requirements associated with providing health insurance coverage for farmworkers.

(2)(a) \$150,000 of the general fund appropriation is provided solely for comparing the scope and cost of services provided by: (i) The basic health plan, (ii) the uniform benefits package, (iii) the state employee health insurance package, and (iv) the medical assistance program. The health services

commission and the office of financial management shall report the findings and fiscal implications of this study to the fiscal committees of the legislature by December 1, 1994.

(b) This study shall:

(i) Take into account the relative ability of medical assistance clients to pay compared with those persons receiving coverage in (a)(i), (ii) and (iii) of this subsection.

(ii) Analyze the impact of means-tested co-payments, co-insurance, and deductibles for persons receiving medical assistance. An examination of the feasibility and cost of administering such payments and their potential positive and negative impacts on health care usage shall also be made.

(3) \$30,000 of the general fund appropriation is provided solely for the purpose of studying other states' experiences with defining medical necessity used in their medical assistance programs. No later than December 1, 1994, the commission in consultation with the office of financial management shall report to the legislature on how other states have defined medical necessity and include consideration of: (a) The probabilities of success of high-cost treatments, (b) whether high-cost treatment will provide any appreciable positive impact on a patient's quality of life, (c) a patient's other existing medical conditions and expected remaining years of life, and (d) the bioethical implications of such definitions.

**Sec. 217.** 1993 sp.s. c 24 s 216 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON STATE HEALTH CARE AUTHORITY**

General Fund Appropriation . . . . .	\$	<del>((6,810,000))</del> 27,418,000
Health Services Account Appropriation . . . . .	\$	<del>((139,368,000))</del> 136,568,000
State Health Care Authority Administrative Account Appropriation . . . . .	\$	<del>((10,045,000))</del> 9,928,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((156,223,000))</del> 173,914,000</b>

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

(1) From the nonappropriated retired school employees insurance account, the health care authority shall reimburse the department of retirement systems through interagency agreements for enrolling K-12 retirees in a state-administered health benefits plan.

(2) \$1,205,000 of the health services account appropriation is provided solely for health care reform planning. If Engrossed Substitute Senate Bill No. 5304 (health care reform) is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(3) \$6,810,000 of the general fund appropriation and \$5,000,000 of the health services account appropriation are provided solely to implement the transfer of the community health clinics funding from the department of health provided in Engrossed Substitute Senate Bill No. 5304 (health care reform).

(4) \$222,000 of the health services account appropriation is provided solely to work with school districts in preparation of providing school employees state-administered health care plans, in accordance with Engrossed Substitute Senate Bill No. 5304 (health care reform).

(5) The health care authority shall not initiate any services that will require expenditure of state general fund moneys unless expressly authorized in this act or other law, or unless the services were provided on March 1, 1993. 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. 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.

(6)(a) ~~\$(132,941,000)~~ 130,153,000 of the health services account appropriation ~~(is)~~ and \$20,608,000 of the general fund appropriation are provided solely for health coverage through the subsidized portion of the basic health plan and program administration. Expenditures from the general fund amount provided in this subsection shall be made only to the extent that the office of financial management certifies that revenues to the health services account during the 1993-95 fiscal biennium are insufficient to fully fund all appropriations from the health services account for the biennium. Total expenditures under this subsection shall not exceed \$130,153,000.

(b) Beginning July 1, 1993, the administrator shall coordinate coverage with the medical assistance division of the department of social and health services to earn federal matching funds and to provide full medical assistance services for eligible children.

Sec. 218. 1993 sp.s. c 24 s 219 (uncodified) is amended to read as follows:

**FOR THE HUMAN RIGHTS COMMISSION**

General Fund—State Appropriation . . . . .	\$	<del>((3,949,000))</del>
		<u>3,841,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,009,000
General Fund—Private/Local Appropriation . . . . .	\$	402,000
TOTAL APPROPRIATION . . . . .	\$	<del>((5,330,000))</del>
		<u>5,252,000</u>

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

(1) \$197,964 of the general fund—private/local appropriation is provided solely for the provision of technical assistance services by the commission.

(2) \$102,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 1443 (jurisdiction of the human rights commission). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

(3) \$50,000 of the general fund—state appropriation is provided to implement Substitute House Bill No. 1966 (racial disproportionality study recommendations).

**Sec. 219.** 1993 sp.s. c 24 s 220 (uncodified) is amended to read as follows:  
**FOR THE BOARD OF INDUSTRIAL INSURANCE APPEALS**

<del>((General Fund Appropriation . . . . .</del>	<del>\$</del>	<del>110,000))</del>
Worker and Community Right-to-Know Account		
Appropriation . . . . .	\$	20,000
Accident Fund Appropriation . . . . .	\$	<del>((10,194,000))</del>
		<u>9,990,000</u>
Medical Aid Fund Appropriation . . . . .	\$	<del>((10,194,000))</del>
		<u>9,990,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((20,518,000))</del>
		<u>20,000,000</u>

**Sec. 220.** 1993 sp.s. c 24 s 221 (uncodified) is amended to read as follows:  
**FOR THE CRIMINAL JUSTICE TRAINING COMMISSION**

Death Investigations Account Appropriation . . . . .	\$	38,000
Public Safety and Education Account		
Appropriation . . . . .	\$	<del>((10,818,000))</del>
		<u>10,654,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	344,000
TOTAL APPROPRIATION . . . . .	\$	<del>((11,200,000))</del>
		<u>11,036,000</u>

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

(1) The public safety and education account appropriation provides sufficient money to implement section 5 of Engrossed Substitute House Bill No. 1569 (malicious harassment).

(2)(a) By September 30, 1994, the Washington state criminal justice training commission, the Washington state patrol, and the Washington association of sheriffs and police chiefs shall develop a written model policy on vehicular pursuits.



(b) The Washington state criminal justice training commission shall make the vehicular pursuit model policy available to the Washington state patrol and local law enforcement agencies.

Sec. 221. 1993 sp.s. c 24 s 222 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF LABOR AND INDUSTRIES**

General Fund—State Appropriation . . . . .	\$	<del>(9,241,000)</del>	<u>9,487,000</u>
Public Works Administration—State Appropriation . . .	\$	<del>((1,175,000))</del>	<u>1,591,000</u>
Public Safety and Education Account State Appropriation . . . . .	\$		20,513,000
Public Safety and Education Account Federal Appropriation . . . . .	\$	<del>((4,783,000))</del>	<u>6,165,000</u>
Public Safety and Education Account Private/Local Appropriation . . . . .	\$		100,000
Accident Fund—State Appropriation . . . . .	\$	<del>((144,374,000))</del>	<u>141,261,000</u>
Accident Fund—Federal Appropriation . . . . .	\$	<del>((7,832,000))</del>	<u>9,112,000</u>
Electrical License Fund Appropriation . . . . .	\$	<del>((18,219,000))</del>	<u>17,315,000</u>
Farm Labor Revolving Account Appropriation . . . . .	\$		28,000
Medical Aid Fund—State Appropriation . . . . .	\$	<del>((166,439,000))</del>	<u>163,949,000</u>
Medical Aid Fund—Federal Appropriation . . . . .	\$		1,592,000
Plumbing Certificate Fund Appropriation . . . . .	\$	<del>((227,000))</del>	<u>700,000</u>
Pressure Systems Safety Fund Appropriation . . . . .	\$	<del>((1,981,000))</del>	<u>1,857,000</u>
Worker and Community Right-to-Know Fund Appropriation . . . . .	\$	<del>((2,170,000))</del>	<u>2,145,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((378,674,000))</del></b>	<b><u>375,815,000</u></b>

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

(1) The secretary of social and health services and the director of labor and industries shall report to the legislature by January 1, 1994, on strategies for reducing workers compensation costs in developmental disabilities, juvenile rehabilitation, and mental health facilities operated by the department of social and health services.

(2) The report shall identify the specific 1994-97 costs and savings associated with at least the following strategies for reducing workers compensation claims and costs: (a) Injury prevention strategies; (b) improved returned to work efforts; (c) more effective claims management through designation of a specific claims unit in the department of labor and industries; and (d) more effective claims management through delegation of claims management responsibility to the department of social and health services.

(3) The report shall also address the projected costs and benefits of at least the following strategies for financing injury and claims reduction efforts: (a) Upfront loss control credits; (b) post-biennial charges for actual costs rather than the current three-year actuarially adjusted method; (c) revised case reserve policies; and (d) reducing the number of state employee risk classifications.

(4) The report shall be submitted to the committees on ways and means and labor and commerce of the senate, and to the committees on appropriations and commerce and labor of the house of representatives.

(5) Expenditure of funds appropriated in this section for the information systems projects identified in agency budget requests as "prime migration((?))" and "state fund information system((?))" (~~and "safety and health information management system"~~) is conditioned upon compliance with section 902 of this act.

(6) Pursuant to RCW 7.68.015, the department shall operate the crime victims compensation program within the public safety and education act 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 and managed care contracts; (c) place benefit maximums on treatment; (d) coordinate with the department of social and health services to use public safety and education account funds as the match for federal Title XIX reimbursement, to the extent this maximizes total funds available for services to crime victims; and (e) establish priorities for the provision of services to eligible claimants as follows:

(i) Emergency medical services (inclusive of sexual assault examinations and emergency transportation);

(ii) Nonemergency medical and outpatient mental health services;

(iii) Family member mental health services;

(iv) Direct compensation (wage loss and disability) benefits on future claims; and

(v) Substance abuse and inpatient mental health services.

(7) \$470,000 of the medical aid fund—state appropriation is provided solely for activities required by Engrossed Second Substitute Senate Bill No. 5304 (health care reform). If the bill is not enacted by July 1, 1993, the amount provided in this subsection shall lapse.

(8) The director of labor and industries and the secretary of social and health services shall negotiate and implement an upfront loss control discount as recommended in the agencies' January 1994 report to the legislature. The

agreement shall identify: (a) Specific, measurable goals for reduced worker injuries and time-loss in the state developmental disabilities institutions and mental hospitals; (b) the actions which each agency will take to accomplish such reductions; and (c) the methods and frequency with which progress toward those goals shall be reported. By July 1, 1994, and every six months thereafter, the departments shall report to the appropriate fiscal and policy committees of the legislature on the status of the agreement, and changes to date in injury and time-loss rates.

(9) \$108,000 of the general fund—state appropriation is provided solely for an interagency agreement to reimburse the board of industrial insurance appeals for crime victims appeals.

(10) Up to \$1,500,000 of the medical aid fund—state appropriation is provided solely to implement section 4 of Substitute House Bill No. 2696 (chemically related illness). Prior to the expenditure of these funds, an agency implementation plan must be approved as required under section 4 of Substitute House Bill No. 2696. If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

(11) \$210,000 of the general fund—state appropriation is provided solely for enhancing the building inspection program.

(12) The department shall provide support to the workers' compensation advisory committee which shall undertake a review of the cost-effectiveness and appellate structure of the board of industrial insurance appeals system. The committee shall seek input from all interested and affected parties. The committee shall report its recommendations to the governor and the legislature by December 1, 1994.

Sec. 222. 1993 sp.s. c 24 s 223 (uncodified) is amended to read as follows:

**FOR THE INDETERMINATE SENTENCE REVIEW BOARD**

General Fund Appropriation	\$	<del>((2,643,000))</del>
		2,591,000

Sec. 223. 1993 sp.s. c 24 s 224 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF VETERANS AFFAIRS**

<del>((General Fund—State Appropriation</del>	<del>\$</del>	<del>20,701,000</del>
<del>General Fund—Federal Appropriation</del>	<del>\$</del>	<del>16,099,000</del>
<del>General Fund—Private/Local Appropriation</del>	<del>\$</del>	<del>10,088,000</del>
<b>Industrial Insurance Premium Refund Account</b>		
Appropriation	\$	50,000
<b>Charitable, Educational, Penal, and Reformatory</b>		
Institutions Account Appropriation	\$	4,000
<b>TOTAL APPROPRIATION</b>	<b>\$</b>	<b>46,942,000))</b>

**(1) HEADQUARTERS**

<u>General Fund Appropriation</u>	<u>\$</u>	<u>2,565,000</u>
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u>	<u>\$</u>	<u>78,000</u>

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<u>Institutions Account Appropriation</u> . . . . .	\$	4,000
<u>TOTAL APPROPRIATION</u> . . . . .	\$	2,647,000
<b>(2) FIELD SERVICES</b>		
<u>General Fund—State Appropriation</u> . . . . .	\$	3,437,000
<u>General Fund—Federal Appropriation</u> . . . . .	\$	618,000
<u>General Fund—Local Appropriation</u> . . . . .	\$	58,000
<u>TOTAL APPROPRIATION</u> . . . . .	\$	4,113,000
<b>(3) VETERANS HOME</b>		
<u>General Fund—State Appropriation</u> . . . . .	\$	8,090,000
<u>General Fund—Federal Appropriation</u> . . . . .	\$	10,154,000
<u>General Fund—Local Appropriation</u> . . . . .	\$	7,528,000
<u>TOTAL APPROPRIATION</u> . . . . .	\$	25,772,000
<b>(4) SOLDIERS HOME</b>		
<u>General Fund—State Appropriation</u> . . . . .	\$	5,598,000
<u>General Fund—Federal Appropriation</u> . . . . .	\$	5,869,000
<u>General Fund—Local Appropriation</u> . . . . .	\$	4,642,000
<u>TOTAL APPROPRIATION</u> . . . . .	\$	16,109,000

Sec. 224. 1993 sp.s. c 24 s 225 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF HEALTH**

General Fund—State Appropriation . . . . .	\$	((92,520,000))
		89,662,000
General Fund—Federal Appropriation . . . . .	\$	((160,977,000))
		183,990,000
General Fund—Local Appropriation . . . . .	\$	((22,357,000))
		21,462,000
Hospital Commission Account Appropriation . . . . .	\$	3,028,000
Medical Disciplinary Account Appropriation . . . . .	\$	1,806,000
Health Professions Account Appropriation . . . . .	\$	((27,931,000))
		27,772,000
<u>Industrial Insurance Account Appropriation</u> . . . . .	\$	14,000
State Toxics Control Account Appropriation . . . . .	\$	3,091,000
Drug Enforcement and Education Account Appropriation . . . . .	\$	467,000
Medical Test Site Licensure Account Appropriation . . . . .	\$	((2,584,000))
		1,832,000
Safe Drinking Water Account Appropriation . . . . .	\$	((1,850,000))
		2,710,000
Public Health Services Account Appropriation . . . . .	\$	20,000,000
Youth Tobacco Prevention Account Appropriation . . . . .	\$	1,830,000
Water Quality Account Appropriation . . . . .	\$	2,997,000
Health Services Account Appropriation . . . . .	\$	((11,171,000))
		12,587,000

Waterworks Operator Certification Account

<u>Appropriation</u> .....	\$	<u>522,000</u>
TOTAL APPROPRIATION .....	\$	((352,609,000))
		<u>373,770,000</u>

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

(1) \$2,465,000 of the general fund—state appropriation is provided for the implementation of the Puget Sound water quality management plan.

(2) \$3,900,000 of the public health services account appropriation is provided solely to implement Second Substitute Senate Bill No. 5239 (centralizing poison information services). If the bill is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(3) \$2,750,000 of the public health services account appropriation is provided solely for teen pregnancy prevention activities as provided in Engrossed Substitute House Bill No. 1408 (teen pregnancy prevention). The media campaign portion of the program shall be provided through a nonprofit corporation.

(4) \$1,000,000 of the public health services account appropriation is provided solely for a counter message advertising campaign aimed at reducing high risk teen behaviors, reducing tobacco and substance abuse, and encouraging sexual abstinence. The media campaign shall be provided through a nonprofit corporation.

(5) \$100,000 of the public health services account appropriation is provided solely for the community-based multicultural assistance program.

(6) \$1,000,000 of the public health services account appropriation is provided solely for immunization programs to include: \$200,000 for provider and public education, \$200,000 for demonstration projects in low-income or economically distressed areas, and \$600,000 for competitive challenge grants to be matched on a one-to-one basis by applicant communities.

(7) \$1,000,000 of the public health services account appropriation is provided solely for enhanced family planning services.

(8) \$250,000 of the public health services account appropriation is provided solely for development of the public health services improvement plan.

(9) \$10,000,000 of the public health services account appropriation is provided solely for distribution to local health departments for distribution on a per capita basis. Prior to distributing these funds, the department shall adopt rules and procedures to ensure that these funds are not used to replace current local support for public health programs.

(10) \$1,507,000 of the health services account appropriation is provided solely for improving recruitment and retention of primary care providers in rural and underserved areas.

(11) \$1,948,000 of the health services account appropriation is provided solely for training emergency medical service personnel.

(12) \$280,000 of the health services account appropriation is provided solely for malpractice insurance for volunteer primary care providers.

(13) \$613,000 of the health services account appropriation is provided solely for development of the health personnel improvement plan.

(14) \$1,918,000 of the health services account appropriation is provided solely for special services for children from throughout the state through Children's hospital.

(15) \$3,530,000 of the health services account appropriation is provided solely for data activities associated with health care reform.

(16) \$1,375,000 of the health services account appropriation is provided solely for the state board of health and health policy activities of the department of health.

(17) \$997,000 of the health services account appropriation is provided solely for the certification of emergency services personnel and ambulance services licensing activities performed by the department of health.

(18) \$419,000 of the health services account appropriation is provided solely for the pesticide program activities in the department of health.

(19) 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, or unless the services were provided on March 1, 1993. 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.

~~(((18) The department shall assess fees for certification and licensure of emergency medical service programs. Certification and licensure costs for volunteer personnel shall be paid from local government revenues under RCW 84.52.069.))~~

(20) The department is authorized to raise existing public water systems operator certification fees in excess of the fiscal growth factor established by Initiative 601 in order to meet the actual costs of certification and regulation.

(21) \$1,158,000 of the general fund—state appropriation is provided to the department of health for the violence prevention act (Engrossed Second Substitute House Bill No. 2319). The department will develop comprehensive rules for the collection of data related to violence, risk, and protective factors. In addition, the department will also establish standards for local health

departments to use in planning and policy development to prevent juvenile crime and develop a reporting format for public media to voluntarily report efforts to reduce violence.

(22) \$25,000 of the general fund—state appropriation is provided solely to develop a state-wide youth suicide prevention plan.

**Sec. 225.** 1993 sp.s. c 24 s 226 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF CORRECTIONS**

**(1) COMMUNITY CORRECTIONS**

General Fund—State Appropriation . . . . .	\$	((144,578,000))
		<u>136,845,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	114,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((144,692,000))</b>
		<u>136,959,000</u>

The appropriations in this subsection are subject to the following conditions and limitations: The department shall not expend any funds appropriated in this act for the supervision of misdemeanants, except in the case of agreements entered into by the department with units of local government pursuant to RCW 72.09.300.

**(2) INSTITUTIONAL SERVICES**

General Fund—State Appropriation . . . . .	\$	((516,108,000))
		<u>502,077,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	1,836,000
<del>((Transportation Account Appropriation . . . . .</del>	<del>\$</del>	<del>1,075,000))</del>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((519,019,000))</b>
		<u>503,913,000</u>

**(3) ADMINISTRATION AND PROGRAM SUPPORT**

General Fund—State Appropriation . . . . .	\$	((25,754,000))
		<u>27,386,000</u>
State Capital Vehicle Parking Account		
<u>Appropriation . . . . .</u>	<u>\$</u>	<u>90,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	147,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((25,901,000))</b>
		<u>27,623,000</u>

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

(a) \$356,000 of the general fund—state appropriation is provided solely for the development of a centralized claims data collection system for health services provided by the department to inmates. Expenditures are contingent on the formal approval by the health care authority of the design of the system. The department shall report, by January 1, 1995, to the house of representatives

corrections committee, the house of representatives appropriations committee, and the senate ways and means committee on savings that may result from centralized claims administration and bill review. The report shall also contain plans and a timeline for the development and implementation of comprehensive cost containment strategies developed in conjunction with the health care authority.

(b) By January 1, 1996, the department shall develop a standard set of health services available for inmates in correctional facilities consistent with the schedule of services that meets the coverage for subsidized enrollees in the basic health plan, pursuant to chapter 70.47 RCW. The services for incarcerated inmates shall exceed the level of services available under the basic health plan for subsidized enrollees only to the extent that they have been identified by the secretary as medically necessary. At such time as the legislature adopts a uniform benefits package pursuant to RCW 43.72.130, the department shall replace the schedule of services for incarcerated inmates with the health care services allowed under the uniform benefits package. The uniform benefits package of services for incarcerated inmates shall exceed the services available under the uniform benefits package only to the extent that they have been identified as medically necessary and appropriate supplemental benefits and services by the secretary.

(c) The department shall submit recommendations to the house of representatives appropriations committee, the house of representatives capital committee, and the senate ways and means committee by January 1, 1995, on methods of reducing operating costs in its facilities through the use of highest and best use analysis and life cycle cost analysis as developed by the legislative budget committee in its report Department of Corrections Capacity Planning and Implementation (LBC 94-1). In identifying options for reductions in its operating budget, the department shall specify the capital costs and savings as well as operating budget savings related to each option.

(d) Indian Ridge correctional center shall be made available to the division of juvenile rehabilitation by October 15, 1994. The department of corrections and the division of juvenile rehabilitation may enter into a contract for operation of the facility prior to the date of transfer.

**(4) CORRECTIONAL INDUSTRIES**

General Fund—State Appropriation . . . . . \$ ((3,795,000))  
3,797,000

**(5) REVOLVING FUNDS**

General Fund—State Appropriation . . . . . \$ ((10,404,000))  
10,576,000

**Sec. 226.** 1993 sp.s. c 24 s 227 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF SERVICES FOR THE BLIND**

General Fund—State Appropriation . . . . . \$ ((2,601,000))  
2,587,000



General Fund—Federal Appropriation . . . . .	\$	<del>((8,552,000))</del>
		<u>8,510,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	80,000
TOTAL APPROPRIATION . . . . .	\$	<del>((11,233,000))</del>
		<u>11,177,000</u>

Sec. 227. 1993 sp.s. c 24 s 228 (uncodified) is amended to read as follows:

**FOR THE SENTENCING GUIDELINES COMMISSION**

General Fund—State Appropriation . . . . .	\$	<del>((662,000))</del>
		<u>723,000</u>

\*Sec. 228. 1993 sp.s. c 24 s 229 (uncodified) is amended to read as follows:

**FOR THE EMPLOYMENT SECURITY DEPARTMENT**

General Fund—State Appropriation . . . . .	\$	<del>((1,397,000))</del>
		<u>1,997,000</u>
General Fund—Federal Appropriation . . . . .	\$	144,834,000
General Fund—Local Appropriation . . . . .	\$	19,982,000
<u>Industrial Insurance Premium Account—State</u>		
<u>Appropriation</u> . . . . .	<u>\$</u>	<u>30,000</u>
Administrative Contingency Fund—Federal		
Appropriation . . . . .	\$	<del>((7,528,000))</del>
		<u>8,235,000</u>
Unemployment Compensation Administration Fund—		
Federal Appropriation . . . . .	\$	<del>((152,409,000))</del>
		<u>152,309,000</u>
Employment Service Administration Account		
Federal Appropriation . . . . .	\$	<del>((11,272,000))</del>
		<u>11,340,000</u>
Employment Training Trust Fund Appropriation . . . . .	\$	7,804,000
TOTAL APPROPRIATION . . . . .	\$	<del>((345,226,000))</del>
		<u>346,531,000</u>

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

(1) \$63,000 of the administrative contingency fund—federal appropriation is provided solely to implement section 30 of chapter 315, Laws of 1991, (Engrossed Substitute Senate Bill No. 5555, timber areas assistance) for the department to contract with the department of community development for support of existing employment centers in timber-dependent communities.

(2) \$215,000 of the administrative contingency fund—federal appropriation is provided solely for the department to contract with the department of community development for support of existing reemployment support centers.

(3) \$643,000 of the administrative contingency fund—federal appropriation is provided solely for programs authorized in sections 5 through 9 of chapter

315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, countercyclical program for timber-impacted areas).

(4) \$304,000 of the administrative contingency fund—federal appropriation is provided solely for programs authorized in section 3 of chapter 315, Laws of 1991 (Engrossed Substitute Senate Bill No. 5555, self-employment enterprise development program for timber areas).

(5) \$289,000 of the administrative contingency fund—federal appropriation is provided solely for programs authorized in sections 3, 4, 5, and 9 of chapter 315, Law of 1991 (Engrossed Substitute Senate Bill No. 5555, timber areas assistance) for administration of extended unemployment benefits (timber AB screening - UI benefits extensions).

(6) \$671,000 of the administrative contingency fund—federal appropriation is provided solely for the corrections clearinghouse coordinator.

(7) \$778,000 of the administrative contingency fund—federal appropriation is provided solely for the corrections clearinghouse ex-offender program.

(8) \$313,000 of the administrative contingency fund—federal appropriation is provided solely for the corrections clearinghouse career awareness program.

(9) \$1,790,471 of the administrative contingency fund—federal appropriation is provided solely for the Washington service corps program.

(10) \$270,000 of the unemployment compensation account—federal appropriation is provided solely for the resource center for the handicapped.

(11) The employment security department shall spend no more than ~~\$(13,778,541)~~ 22,069,541 of the general fund—federal appropriation for the general unemployment insurance development effort (GUIDE) project. Of this amount, \$8,291,000 is transferred to the office of financial management to monitor the contract and expenditures for the GUIDE project. The office of financial management shall report to the appropriate legislative committees on the progress of GUIDE by January 1, 1995. Authority to expend this amount is conditioned on compliance with section 902 of chapter 24, Laws of 1993, sp. sess.

(12) \$300,000 of the general fund—state appropriation is provided solely to implement Engrossed Substitute House Bill No. 1529 (timber programs reauthorization). If Engrossed Substitute House Bill No. 1529 is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(13) \$275,000 of the general fund—state appropriation is provided solely to implement a youth gang prevention program. If Engrossed Substitute House Bill No. 1333 is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(14) \$400,000 of the general fund—state appropriation is provided solely for transfer to the department of social and health services division of vocational rehabilitation solely to contract with the Washington initiative for supported employment for the purpose of continuing the promotion of supported employment services for persons with significant disabilities.

(15) \$400,000 of the general fund—state appropriation is provided solely to implement the Washington serves program. If Substitute House Bill No. 1969 is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(16) \$500,000 of the administrative contingency fund appropriation is provided solely to match \$750,000 of the general fund—federal appropriation for the department of social and health services. The \$1,250,000 is provided solely for additional job counselors required under section 6 of Engrossed Second Substitute House Bill No. 2798 (public assistance reform).

(17) \$600,000 of the general fund—state appropriation is provided solely to fund projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program. "Youthbuild" means any program that provides disadvantaged youth with opportunities for employment, education, leadership development, entrepreneurial skills development, and training in the construction or rehabilitation of housing for special need populations, very low-income households, or low-income households.

(18) \$68,000 of the employment service administration account—federal appropriation is provided solely for supporting the unemployment insurance task force as prescribed under chapter 483, Laws of 1993 and Substitute Senate Bill No. 6217 (unemployment insurance task force).

(19) \$80,000 of the unemployment compensation administration fund—federal appropriation is provided solely for Engrossed Senate Bill No. 6480 (unemployment insurance compensation).

\*Sec. 228 was partially vetoed, see message at end of chapter.

**PART III  
NATURAL RESOURCES**

Sec. 301. 1993 sp.s. c 24 s 301 (uncodified) is amended to read as follows:

**FOR THE STATE ENERGY OFFICE**

General Fund—State Appropriation . . . . .	\$	<del>((1,518,000))</del>
		<u>1,488,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((23,675,000))</del>
		<u>22,922,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	6,769,000
Geothermal Account—Federal Appropriation . . . . .	\$	41,000
Building Code Council Account Appropriation . . . . .	\$	92,000
Air Pollution Control Account Appropriation . . . . .	\$	6,007,000
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	4,000
Energy Efficiency Services Account		
Appropriation . . . . .	\$	1,056,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((39,162,000))</b></del>
		<u><b>38,379,000</b></u>

Sec. 302. 1993 sp.s. c 24 s 302 (uncodified) is amended to read as follows:

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**FOR THE COLUMBIA RIVER GORGE COMMISSION**

General Fund—State Appropriation . . . . .	\$	<del>((574,000))</del>
		<u>563,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((542,000))</del>
		<u>531,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((1,116,000))</del>
		<u>1,094,000</u>

\*Sec. 303. 1993 sp.s. c 24 s 303 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF ECOLOGY**

General Fund—State Appropriation . . . . .	\$	<del>((55,625,000))</del>
		<u>53,557,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((45,061,000))</del>
		<u>44,601,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	<del>((1,103,000))</del>
		<u>946,000</u>
Special Grass Seed Burning Research Account		
Appropriation . . . . .	\$	132,000
Reclamation Revolving Account Appropriation . . . . .	\$	<del>((1,696,000))</del>
		<u>2,096,000</u>
Emergency Water Project Revolving Account		
Appropriation: Appropriation pursuant to		
chapter 1, Laws of 1977 ex.s. . . . .	\$	312,000
Litter Control Account Appropriation . . . . .	\$	6,388,000
State and Local Improvements Revolving Account—		
Waste Disposal Facilities: Appropriation		
pursuant to chapter 127, Laws of 1972		
ex.s. (Referendum 26) . . . . .	\$	<del>((2,680,000))</del>
		<u>2,632,000</u>
Industrial Insurance Premium Refund Account		
Appropriation . . . . .	\$	<del>((42,000))</del>
		<u>172,000</u>
State and Local Improvements Revolving Account—		
Water Supply Facilities: Appropriation pursuant		
to chapter 234, Laws of 1979 ex.s.		
(Referendum 38) . . . . .	\$	1,349,000
Stream Gaging Basic Data Fund Appropriation . . . . .	\$	<del>((303,000))</del>
		<u>221,000</u>
Vehicle Tire Recycling Account Appropriation . . . . .	\$	<del>((7,832,000))</del>
		<u>9,782,000</u>
Water Quality Account Appropriation . . . . .	\$	<del>((2,700,000))</del>
		<u>2,701,000</u>
Wood Stove Education Account Appropriation . . . . .	\$	<del>((1,382,000))</del>
		<u>1,297,000</u>

Worker and Community Right-to-Know Fund	
Appropriation . . . . .	\$           ((410,000))
	<u>439,000</u>
State Toxics Control Account—State Appropriation . . .	\$       ((55,242,000))
	<u>54,147,000</u>
Local Toxics Control Account Appropriation . . . . .	\$       ((3,314,000))
	<u>3,207,000</u>
Water Quality Permit Account Appropriation . . . . .	\$       20,714,000
Solid Waste Management Account Appropriation . . . .	\$       11,463,000
Underground Storage Tank Account Appropriation . . .	\$       ((2,970,000))
	<u>2,835,000</u>
Hazardous Waste Assistance Account Appropriation . .	\$       4,112,000
Air Pollution Control Account Appropriation . . . . .	\$       ((14,217,000))
	<u>13,841,000</u>
Oil Spill Response Account Appropriation . . . . .	\$       ((7,256,000))
	<u>7,060,000</u>
Oil Spill Administration Account Appropriation . . . .	\$       ((3,738,000))
	<u>3,526,000</u>
Fresh Water Aquatic Weed Control Account	
Appropriation . . . . .	\$       ((1,686,000))
	<u>1,978,000</u>
Air Operating Permit Account Appropriation . . . . .	\$       4,566,000
Water Pollution Control Revolving Account—State	
Appropriation . . . . .	\$       ((196,000))
	<u>177,000</u>
Water Pollution Control Revolving Account—Federal	
Appropriation . . . . .	\$       1,034,000
Public Works Assistance Account Appropriation . . . .	\$       4,000,000
<u>Water Right Processing and Data Management</u>	
<u>Account Appropriation</u> . . . . .	\$       2,154,000
TOTAL APPROPRIATION . . . . .	\$       ((261,523,000))
	<u>261,439,000</u>

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

(1) \$6,222,000 of the general fund—state appropriation and \$1,071,000 of the general fund—federal appropriation are provided for the implementation of the Puget Sound water quality management plan.

(2) \$7,800,000 of the general fund—state appropriation is provided solely for the auto emissions inspection and maintenance program. Expenditure of the amount provided in this subsection is contingent upon a like amount being deposited in the general fund from auto emission inspection fees in accordance with RCW 70.120.170(4).

(3) \$400,000 of the general fund—state appropriation is provided solely for water resource management activities associated with the continued implementation of the regional pilot projects started in the 1991-93 biennium.

(4) \$3,100,000 of the state toxics control account appropriation is provided solely for the following purposes:

(a) To conduct remedial actions for sites for which there are no potentially liable persons or for which potentially liable persons cannot be found;

(b) To provide funding to assist potentially liable persons under RCW 70.105D.070(2)(d)(xi) to pay for the cost of the remedial actions; and

(c) To conduct remedial actions for sites for which potentially liable persons have refused to comply with the orders issued by the department under RCW 70.105D.030 requiring the persons to provide the remedial action.

(5) \$4,566,000 of the air operating permit fee account appropriation and \$642,000 of the air pollution control account appropriation are provided solely to implement Engrossed Substitute House Bill No. 1089, reauthorizing air operating permits. If Engrossed Substitute House Bill No. 1089 is not enacted by June 30, 1993, \$4,566,000 of the air operating permit fee account appropriation and \$642,000 of the air pollution control account appropriation shall lapse.

(6) Of the solid waste management account appropriation, \$6,100,000 is provided solely for grants to local governments to implement waste reduction and recycling programs, \$75,000 is provided solely for grants to local governments for costs related to contaminated oil collected from publicly used oil collection facilities, and \$40,000 is provided solely for school recycling awards. If Second Substitute Senate Bill No. 5288 is not enacted by June 30, 1993, \$10,200,000 of the solid waste management account appropriation and the amounts provided in this subsection shall lapse.

(7)(a) \$2,000,000 of the general fund—state appropriation is provided solely for the continued implementation of the water resources data management system.

(b) If Engrossed Second Substitute Senate Bill No. 6291 (water rights processing) is enacted by June 30, 1994, subsection (7)(a) is null and void and \$1,625,000 of the general fund—state appropriation and \$125,000 of the water right processing and data management account appropriation are provided solely for the continued implementation of the water resources data management system.

(8)(a) For fiscal year 1994, \$3,750,000 of the general fund—state appropriation is provided to administer the water rights permit program. For fiscal year 1995, not more than \$1,375,000 of the general fund—state appropriation may be expended for the program unless legislation to increase fees to fund at least fifty percent of the full cost of the water rights permit program, including data management, is enacted by June 30, 1994.

(b) If Engrossed Second Substitute Senate Bill No. 6291 (water rights processing) is enacted by June 30, 1994, \$2,029,000 of the general fund—state appropriation and \$2,029,000 of the water right processing and data manage-

**ment account appropriation are provided solely for the water rights permit program in fiscal year 1995. If the bill is not enacted by June 30, 1994, the general fund—state appropriation in this section shall be reduced by \$654,000 and the entire water right processing and data management account appropriation in this section shall lapse.**

(9) \$1,175,000 of the reclamation revolving account appropriation is provided solely for the administration of the well drilling program. If House Bill No. 1806 is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(10) The department of ecology shall cooperate with the department of community development and shall carry out its responsibility under the federally required April 20, 1992, flood hazard reduction mitigation plan. Specifically, the department shall implement the duties outlined in the flood reduction matrix dated December 18, 1992, or as amended by federal requirements, in consultation with the office of financial management.

(11) ~~\$(3,250,000)~~ 2,500,000 of the general fund—state appropriation is provided for funding labor-intensive environmental restoration projects, including projects using the Washington conservation corps. In awarding grant contracts, the department shall give priority to projects which implement watershed action plans. If the governor convenes an environmental restoration task force, then projects funded from the amount provided in this subsection shall be subject to review by the task force.

(12) \$256,000 of the general fund—state appropriation is provided to identify and designate regional water resource planning areas in the central Puget Sound region and to prepare one or more comprehensive water resource plans for the designated area or areas. To assist in preparing the report, the department shall assemble representatives from state agencies, local governments and tribal governments. The report shall identify suggested boundaries, water resource issues relevant to each planning area, and public and private groups having specific interests in the region's water resource issues. The report shall be provided to the governor and the appropriate committees of the legislature by March 15, 1994. Within 90 days thereafter, the governor shall direct the development of a comprehensive water resources plan or plans required by RCW 90.54.040(1). Any amount of this appropriation in excess of \$156,000 shall not be expended unless matched by an equal amount from utilities and local governments.

(13) \$238,000 of the water quality permit account appropriation is provided solely for implementation of Substitute House Bill No. 1169 (marine finfish). If Substitute House Bill No. 1169 is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(14) Within the appropriations provided in this section, sufficient funds are provided to implement sections 8 through 15 of Second Engrossed Substitute House Bill No. 1309 (wild salmonids).

(15) Pursuant to RCW 43.135.055, the department is authorized to increase water well operators' fees under chapter 18.104 RCW, by rule, to an amount not to exceed two hundred fifty dollars for a two-year period.

(16) Pursuant to RCW 43.135.055, the department is authorized to increase site use permit fees under RCW 43.200.080, by rule, to an amount sufficient to recover up to \$143,000 in costs associated with the Northwest interstate compact on low-level radioactive waste management.

(17) \$100,000 of the public works assistance account is provided solely for technical analysis and coordination with the army corps of engineers and local agencies to address the breach in the south jetty at the entrance of Grays Harbor.

(18) \$29,000 of the worker and community right-to-know fund appropriation is provided solely for conducting an environmental equity study to include information on the distribution of environmental facilities and toxic chemical releases in relation to low-income and minority communities.

(19) \$100,000 of the general fund—state appropriation is provided solely on a one-time basis for the implementation of Engrossed Substitute House Bill No. 2521 (metals mining and milling). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse. Consistent with section 27 of Engrossed Substitute House Bill 2521, the metals mining advisory group shall recommend to the legislature by January 1, 1995, a fee schedule that fully supports all provisions of Engrossed Substitute House Bill No. 2521.

(20) \$50,000 of the water quality account appropriation is provided solely to contract with the Hood Canal coordinating council to: (a) Pursue methods to control existing nonpoint source pollution; (b) improve cooperation among local, state, federal, and tribal governmental agencies with management authority over Hood Canal; (c) encourage more centralized research and baseline data collection; and (d) inform and educate local residents and decision makers about the need to protect the watershed's environmental integrity.

\*Sec. 303 was partially vetoed, see message at end of chapter.

**Sec. 304.** 1993 sp.s. c 24 s 304 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON POLLUTION LIABILITY REINSURANCE PROGRAM**

Pollution Liability Insurance Trust Program . . . . .	\$	((906,000))
		<u>903,000</u>

\*Sec. 305. 1993 sp.s. c 24 s 305 (uncodified) is amended to read as follows:

**FOR THE STATE PARKS AND RECREATION COMMISSION**

General Fund—State Appropriation . . . . .	\$	((54,130,000))
		<u>73,938,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,948,000
General Fund—Private/Local Appropriation . . . . .	\$	1,280,000
Winter Recreation Program Account Appropriation . . .	\$	879,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	242,000



Snowmobile Account Appropriation . . . . .	\$	((1,636,000))
		<u>1,886,000</u>
Public Safety and Education Account		
Appropriation . . . . .	\$	48,000
Litter Control Account Appropriation . . . . .	\$	34,000
Motor Vehicle Fund Appropriation . . . . .	\$	1,174,000
<i>Oil Spill Administration Account Appropriation . . . . .</i>	<i>\$</i>	<i>((64,000))</i>
		<u>48,000</u>
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	316,000
TOTAL APPROPRIATION . . . . .	\$	((61,751,000))
		<u>81,793,000</u>

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

~~((2)) \$7,700,000 of the general fund state appropriation is provided contingent upon the adoption and implementation of a fee schedule by the state parks and recreation commission that provides a like amount of revenue above the 1993-95 forecast for fees authorized under RCW 43.51.060(6) for fees in place as of January 1, 1993. Fees shall be based on the extent to which a facility is developed and maintained for year round use. Maximum boat launch fees shall be assessed only at water access facilities where bathrooms, parking areas, and docking facilities are provided and maintained on a regular basis. Reduced fees may be assessed at water access facilities that are unimproved. Seasonal day area parking fees shall not be assessed. This subsection shall not preclude the assessment of a flat annual fee for use of all water access facilities and other state park facilities throughout the state))~~ *(1) The state parks and recreation commission is directed to implement fees that provide at least \$3,000,000 of additional revenue for the 1993-95 biennium above that generated under fees adopted prior to the effective date of this act.*

~~((3))~~ *(2) \$2,824,000 of the general fund—state appropriation is provided solely to address stewardship needs for state parks. Of this amount, \$1,800,000 is provided solely for the Washington conservation corps program established under chapter 43.220 RCW.*

*(3) The state parks and recreation commission is authorized to raise existing fees in excess of the fiscal growth factor established by Initiative Measure No. 601 in order to meet revenue targets assumed in subsection (1) of this section.*

*(4) \$189,000 of the aquatic lands enhancement account appropriation is provided solely to implement the Puget Sound water quality plan.*

*(5) \$15,000,000 of the general fund—state appropriation is provided solely to acquire trust lands that have been identified in section 459(1)(a), chapter 22, Laws of 1993 sp. sess. All provisions and conditions of section 459, chapter 22, Laws of 1993 sp. sess., as amended, shall apply to expenditure of this amount.*

*(6) \$60,000 of the general fund—state appropriation is provided solely for the implementation and development of the state scenic rivers program.*

(7) No later than December 1, 1994, the commission shall provide to the appropriate committees of the legislature a report on alternatives to increase the involvement of nongovernmental organizations in the acquisition, development, and operation of units within the state park system. The report shall include: (a) A review of the public/private partnerships in local park programs, state park programs in other states, and examples in other countries, such as the private, nonprofit British national trust; (b) a review of the existing roles of nonprofit land conservation trusts in providing public recreational opportunities and the conservation of land, and alternatives under which one or more such organizations may enter agreements with the state for the furtherance of the state park system; (c) a review of possible transfer of state parks to local governments, if they are willing, for operation of such parks; and (d) recommended methods to identify and secure the necessary funding for capital development and operating costs when lands are proposed for acquisition as an addition to the state park system. The report shall include recommendations for administrative and legislative action to implement the alternatives identified.

(8) \$5,000,000 of the general fund—state appropriation is provided solely for critical park maintenance projects throughout the state. The department shall make every effort to contract locally and to provide local jobs to complete these projects.

\*Sec. 305 was partially vetoed, see message at end of chapter.

Sec. 306. 1993 sp.s. c 24 s 306 (uncodified) is amended to read as follows:  
**FOR THE INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION**

Outdoor Recreation Account—State Appropriation . . . .	\$	2,541,000
Outdoor Recreation Account—Federal Appropriation . .	\$	((34,000))
		<u>50,000</u>
Firearms Range Account Appropriation . . . . .	\$	25,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((2,600,000))</b>
		<u>2,616,000</u>

Sec. 307. 1993 sp.s. c 24 s 307 (uncodified) is amended to read as follows:  
**FOR THE ENVIRONMENTAL HEARINGS OFFICE**

General Fund Appropriation . . . . .	\$	((1,205,000))
		<u>1,361,000</u>

~~((The appropriation in this section is subject to the following conditions and limitations: \$30,000 is provided solely for the increased costs associated with a half-time administrative law judge.))~~

Sec. 308. 1993 sp.s. c 24 s 309 (uncodified) is amended to read as follows:  
**FOR THE CONSERVATION COMMISSION**

General Fund Appropriation . . . . .	\$	((1,670,000))
		<u>1,661,000</u>

Water Quality Account Appropriation . . . . .	\$	202,000
TOTAL APPROPRIATION . . . . .	\$	<u>((1,872,000))</u>
		<u>1,863,000</u>

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

(1) Not more than eight percent of the water quality account moneys administered by the commission may be used by the commission for administration and program activities related to the grant and loan program.

(2) \$~~((371,800))~~ 362,000 of the general fund appropriation is provided solely to implement the Puget Sound water quality management plan.

(3) \$750,000 of the general fund appropriation is provided solely for basic operation grants to conservation districts.

(4) \$158,000 of the general fund appropriation is provided solely for implementing Engrossed Substitute House Bill No. 1309 (wild salmonid protection).

**Sec. 309.** 1993 sp.s. c 24 s 310 (uncodified) is amended to read as follows:  
**FOR THE PUGET SOUND WATER QUALITY AUTHORITY**

General Fund—State Appropriation . . . . .	\$	<u>((3,059,000))</u>
		<u>2,996,000</u>
General Fund—Federal Appropriation . . . . .	\$	<u>((202,000))</u>
		<u>198,000</u>
Water Quality Account Appropriation . . . . .	\$	<u>((946,000))</u>
		<u>927,000</u>
TOTAL APPROPRIATION . . . . .	\$	<u>((4,207,000))</u>
		<u>4,121,000</u>

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

(1) \$~~((320,000))~~ 313,600 of the general fund—state appropriation is provided solely for an interagency agreement with Washington State University cooperative extension service for field agents to provide technical assistance in implementing the Puget Sound water quality management plan.

(2) \$~~((232,000))~~ 227,000 of the general fund—state appropriation is provided solely for an interagency agreement with the University of Washington sea grant program for field agents to provide technical assistance in implementing the Puget Sound water quality management plan.

(3) In addition to the amounts provided in subsections (1) and (2) of this section, \$681,000 of the general fund—state appropriation is provided solely to implement additional provisions of the Puget Sound water quality management plan.

**Sec. 310.** 1993 sp.s. c 24 s 311 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF FISHERIES**

General Fund—State Appropriation . . . . .	\$	<u>((55,740,000))</u>
		<u>55,930,000</u>

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General Fund—Federal Appropriation . . . . .	\$	25,048,000
General Fund—Private/Local Appropriation . . . . .	\$	9,609,000
Aquatic Lands Enhancement Account Appropriation ..	\$	((4,092,000))
		<u>4,269,000</u>
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	28,000
Oil Spill Administration Account Appropriation . . . . .	\$	388,000
Recreational Fish Enhancement—State		
Appropriation . . . . .	\$	((4,049,000))
		<u>3,749,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((98,926,000))</b>
		<u>99,021,000</u>

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

- (1) \$((~~1,136,418~~)) 1,049,410 of the general fund—state appropriation is provided to implement the Puget Sound water quality management plan.
- (2) \$1,441,000 of the aquatic lands enhancement account appropriation is provided solely for wildstock restoration programs for salmon species outside of the Columbia river basin. Work will include the development, implementation and evaluation of specific stock restoration plans. The department of fisheries shall provide a progress report to the governor and appropriate legislative committees by September 6, 1994.
- (3) \$((~~546,000~~)) 723,000 of the aquatic lands enhancement account appropriation is provided solely for shellfish management and enforcement.
- (4) \$200,000 of the general fund—state appropriation is provided solely for attorney general costs on behalf of the department of fisheries in defending the state and public interest in tribal halibut litigation (*United States v. Washington* subproceeding 91-1 and *Makah v. Mosbacher*). The attorney general costs shall be paid as an interagency reimbursement.
- (5) \$((~~450,000~~)) 689,000 of the general fund—state appropriation is provided solely for attorney general costs on behalf of the department of fisheries, department of natural resources, department of health, and the state parks and recreation commission in defending the state and public interest in tribal shellfish litigation (*United States v. Washington*, subproceeding 89-3). The attorney general costs shall be paid as an interagency reimbursement.
- (6) The department of fisheries shall cooperate with the department of community development and shall carry out its responsibilities under the federally required April 20, 1992, flood hazard reduction mitigation plan. Specifically, the department shall implement the duties outlined in the flood reduction matrix dated December 18, 1992, or as amended by federal requirement, in consultation with the office of financial management.
- (7) Within the appropriations provided in this section, sufficient funds are provided to implement sections 1 through 6 of Second Engrossed Substitute House Bill No. 1309 (wild salmonids).

(8) \$3,200,000 of the general fund—state appropriation is contingent upon the enactment of Substitute Senate Bill No. 5980 (fishing licenses). If Substitute Senate Bill 5980 is not enacted by June 30, 1993, \$3,200,000 of the general fund—state appropriation shall lapse.

(9) \$115,000 of the general fund—state appropriation is provided solely to maintain the south Puget Sound net pen facility.

(10) \$110,000 of the general fund—state appropriation is provided solely for the operation of the Issaquah Hatchery.

(11) \$53,000 of the general fund—state appropriation is provided solely to implement Substitute Senate Bill No. 6125 (combined recreational hunting and fishing license). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

\*Sec. 311. 1993 sp.s. c 24 s 312 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF WILDLIFE**

General Fund Appropriation . . . . .	\$	<del>((10,226,000))</del>
		<u>10,021,000</u>
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	480,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	1,112,000
<u>Warm Water Fish Account Appropriation . . . . .</u>	<u>\$</u>	<u>604,000</u>
Public Safety and Education Account		
Appropriation . . . . .	\$	590,000
Wildlife Fund—State Appropriation . . . . .	\$	<del>((50,723,000))</del>
		<u>50,776,000</u>
Wildlife Fund—Federal Appropriation . . . . .	\$	32,101,000
Wildlife Fund—Private/Local Appropriation . . . . .	\$	12,402,000
Game Special Wildlife Account Appropriation . . . . .	\$	1,012,000
Oil Spill Administration Account Appropriation . . . . .	\$	<del>((548,000))</del>
		<u>520,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b><del>((109,194,000))</del></b>
		<u>109,618,000</u>

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

(1) \$482,145 of the general fund appropriation is provided to implement the Puget Sound water quality management plan.

(2) The department of wildlife shall cooperate with the department of community development and shall carry out its responsibilities under the federally required April 20, 1992, flood hazard reduction mitigation plan. Specifically, the department shall implement the duties outlined in the flood reduction matrix dated December 18, 1992, or as amended by federal requirement, in consultation with the office of financial management.

(3) ~~\$((1,000,000))~~ 920,000 of the general fund appropriation is provided solely to address stewardship needs on state lands. Of this amount, ~~\$((900,000))~~

820,000 is provided for the Washington conservation corps program established under chapter 43.220 RCW.

(4) \$140,000 of the general fund appropriation is provided for a cooperative effort with the department of agriculture for research and eradication of purple loosestrife on state lands.

(5) \$53,000 of the wildlife fund—state appropriation and \$604,000 of the warm water fish account appropriation are provided solely to implement Substitute Senate Bill No. 6125 (combined recreational hunting and fishing license and warm water fish enhancement). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

\*Sec. 311 was partially vetoed, see message at end of chapter.

**Sec. 312.** 1993 sp.s. c 24 s 313 (uncodified) is amended to read as follows: **DEPARTMENT OF FISH AND WILDLIFE.** On July 1, 1994, all appropriations and all conditions and limitations in this act for the department of fisheries and the department of wildlife shall be provided for the department of fish and wildlife. ~~((If Substitute House Bill No. 2055 or substantially similar legislation creating a department of fish and wildlife is not enacted by July 1, 1994, this section shall have no effect.))~~ If either House Bill No. 2678 or Senate Bill No. 6346 (fish and wildlife) or substantially similar legislation is enacted by the 1994 session of the legislature, then all appropriations and all conditions and limitations in this act for the department of fisheries and the department of wildlife shall be provided for the department of fish and wildlife on the date specified for the merger of the two departments in that legislation.

**Sec. 313.** 1993 sp.s. c 24 s 314 (uncodified) is amended to read as follows: **FOR THE DEPARTMENT OF NATURAL RESOURCES**

General Fund—State Appropriation . . . . .	\$	<del>((49,394,000))</del>
		<u>46,994,000</u>
General Fund—Federal Appropriation . . . . .	\$	906,000
General Fund—Private/Local Appropriation . . . . .	\$	264,000
ORV (Off-Road Vehicle) Account Appropriation . . . . .	\$	3,092,000
Forest Development Account Appropriation . . . . .	\$	<del>((37,652,000))</del>
		<u>37,614,000</u>
Survey and Maps Account Appropriation . . . . .	\$	1,519,000
Aquatic Lands Enhancement Account Appropriation . . . . .	\$	2,524,000
Surface Mining Reclamation Account Appropriation . . . . .	\$	1,271,000
Resource Management Cost Account Appropriation . . . . .	\$	<del>((82,107,000))</del>
		<u>81,990,000</u>
Aquatic Land Dredged Material Disposal Site Account Appropriation . . . . .	\$	<del>((830,000))</del>
		<u>738,000</u>
Air Pollution Control Account Appropriation . . . . .	\$	<del>((1,252,000))</del>
		<u>852,000</u>
Natural Resources Conservation Areas Stewardship		

Account Appropriation . . . . .	\$	1,119,000
Oil Spill Administration Account Appropriation . . . . .	\$	<del>((130,000))</del>
		<u>65,000</u>
Litter Control Account Appropriation . . . . .	\$	506,000
Industrial Insurance Premium Refund Account Appropriation . . . . .	\$	<del>((98,000))</del>
		<u>76,000</u>
<u>Watershed Restoration Account Appropriation . . . . .</u>	<u>\$</u>	<u>10,000,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((182,664,000))</del>
		<u>189,530,000</u>

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

(1) ~~\$(8,072,000)~~ 7,072,000 of the general fund—state appropriation is provided solely for the emergency fire suppression subprogram.

(2) \$993,000 of the appropriations in this section are provided to implement the Puget Sound water quality management plan.

(3) ~~\$(500,000)~~ 450,000 of the general fund—state appropriation and ~~\$(1,000,000)~~ 900,000 of the resource management cost account appropriation are provided solely for the displaced forest-products worker program under chapter 50.70 RCW.

(4) ~~\$(1,500,000)~~ 1,400,000 of the general fund—state appropriation is provided solely to address stewardship needs on state lands. Of this amount, ~~\$(1,350,000)~~ 1,250,000 shall be expended for the Washington conservation corps program established under chapter 43.220 RCW.

(5) \$1,271,000 of the surface mining reclamation account is provided solely for surface mining regulation activities.

(6) \$1,200,000 of the general fund—state appropriation is provided solely for cooperative monitoring, evaluation, and research projects related to implementation of the timber-fish-wildlife agreement.

(7) ~~\$(3,250,000)~~ 2,000,000 of the general fund—state appropriation ~~((19))~~ and \$2,000,000 of the amount referenced in subsection (13) of this section are provided solely to fund labor-intensive natural resource and forest restoration projects. In providing forest related employment opportunities, the department shall give first priority to hiring workers unemployed as a result of reduced timber supply. If the governor convenes an environmental restoration task force, then projects funded from the amount provided in this subsection shall be subject to review by the task force.

(8) The department of natural resources shall cooperate with the department of community development and shall carry out its responsibilities under the federally required April 20, 1992, flood hazard reduction mitigation plan. Specifically, the department shall implement the duties outlined in the flood reduction matrix dated December 18, 1992, or as amended by federal requirement, in consultation with the office of financial management.

(9) \$60,000 of the general fund—state appropriation is provided solely for the department to contract for increased development of the Mount Tahoma cross-country ski trails system.

(10) \$450,000, of which \$225,000 is from the resource management cost account appropriation and \$225,000 is from the aquatic lands enhancement account appropriation, is provided solely for the control and eradication of Spartina.

(11) \$1,555,000 of the general fund—state appropriation is provided solely for increased workload associated with forest practice compliance and watershed management.

(12) The department of natural resources shall provide its quarterly trust revenue forecast to the office of financial management and the legislature on a timetable which is consistent with the submission of the state economic and revenue forecast to the governor and the legislature by the economic and revenue forecast council. In preparing its forecasts and to the extent feasible, the department shall use economic assumptions that are consistent with those used by the economic and revenue forecast council.

(13) The full amount of the watershed restoration account appropriation in this section is provided solely for the watershed recovery partnership program established in Engrossed Substitute Senate Bill No. 6243 (omnibus capital budget).

(14) \$50,000 of the general fund—state appropriation is provided solely on a one-time basis for the implementation of Engrossed Substitute House Bill No. 2521 (metals mining and milling). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse. Consistent with section 27 of Engrossed Substitute House Bill No. 2521, the metals mining advisory group shall recommend to the legislature by January 1, 1995, a fee schedule that fully supports all provisions of Engrossed Substitute House Bill No. 2521.

(15) \$5,000 of the general fund—state appropriation is provided solely to implement Substitute Senate Bill No. 6556 (public lands rental/TV districts). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

Sec. 314. 1993 sp.s. c 24 s 315 (uncodified) is amended to read as follows:

**FOR THE DEPARTMENT OF AGRICULTURE**

General Fund—State Appropriation . . . . .	\$	<del>((13,462,000))</del>
		14,523,000
General Fund—Federal Appropriation . . . . .	\$	<del>((4,320,000))</del>
		4,186,000
State Toxics Control Account Appropriation . . . . .	\$	1,103,000
Weights and Measures Account Appropriation . . . . .	\$	864,000
<u>State Industrial Insurance Premium Refund Account</u>		
<u>Appropriation . . . . .</u>	\$	74,000
TOTAL APPROPRIATION . . . . .	\$	<del>((19,749,000))</del>
		20,750,000



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

(1) \$71,000 of the general fund—state appropriation is provided solely to implement the Puget Sound water quality management plan element NP-6. The department shall provide technical assistance to local governments in the process of developing watershed management plans.

(2) \$300,000 of the general fund—state appropriation and the entire weights and measures account appropriation are provided solely for the department’s weights and measures program.

(3) \$493,000 of the general fund—state appropriation is provided solely to promote international trade.

(4) The department shall report to the governor and the appropriate fiscal committees of the legislature, by November 15, 1994, regarding administrative costs of the agency and how such costs are being allocated between programs and funds sources within the agency.

**Sec. 315.** 1993 sp.s. c 24 s 317 (uncodified) is amended to read as follows:  
**FOR THE OFFICE OF MARINE SAFETY**

Oil Spill Administration Account	
Appropriation . . . . .	\$ ((4,198,000))
	<u>3,992,000</u>
State Toxics Control Account Appropriation . . . . .	\$ 298,000
TOTAL APPROPRIATION . . . . .	\$ ((4,496,000))
	<u>4,290,000</u>

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

(1) \$963,000 of the oil spill administration account appropriation is provided solely for the implementation of a field operations program in accordance with Substitute House Bill No. 1144. The marine oversight board shall provide an assessment of the work plan to implement the office of marine safety’s field operations program. A report containing the marine oversight board’s assessment of the field operations program, including recommendations for the allocation of resources, shall be submitted to the office of financial management, the office of marine safety, and appropriate committees of the legislature by August 1, 1993.

~~(2) ((The marine oversight board shall prepare a report that prioritizes state agencies’ spill prevention and response activities on the marine waters of the state. The report shall be submitted to the office of financial management and the appropriate committees of the legislature by October 1, 1994.))~~ \$224,000 of the oil spill administration account appropriation is provided solely for the implementation of a field operations program on the Columbia river. This funding level assumes that the state of Oregon will provide office space and other forms of in-kind support.

(3) \$153,000 of the oil spill administration account appropriation is provided solely for the marine oversight board. After July 1, 1994, funding provided in this subsection is for meeting-related costs only.

**PART IV  
TRANSPORTATION**

**Sec. 401.** 1993 sp.s. c 24 s 401 (uncodified) is amended to read as follows:  
**FOR THE DEPARTMENT OF LICENSING**

General Fund Appropriation . . . . .	\$	<del>((6,536,000))</del>
		<u>7,440,000</u>
Architects' License Account Appropriation . . . . .	\$	<del>((1,040,000))</del>
		<u>1,063,000</u>
Cemetery Account Appropriation . . . . .	\$	<del>((216,000))</del>
		<u>198,000</u>
<del>((Health Professions Account Appropriation . . . . .</del>	<del>\$</del>	<del>521,000))</del>
Funeral Directors and Embalmers Account Appropriation . . . . .	\$	<del>((521,000))</del>
		<u>482,000</u>
<del>((Mortgage Broker Licensing Account Appropriation . . . . .</del>	<del>\$</del>	<del>187,000))</del>
Professional Engineers' Account Appropriation . . . . .	\$	<del>((2,509,000))</del>
		<u>2,545,000</u>
Real Estate Commission Account Appropriation . . . . .	\$	<del>((7,155,000))</del>
		<u>6,956,000</u>
Uniform Commercial Code Account Appropriation . . . . .	\$	<del>((5,246,000))</del>
		<u>5,785,000</u>
Real Estate Education Account Appropriation . . . . .	\$	618,000
Master Licensing Account Appropriation . . . . .	\$	<del>((6,747,000))</del>
		<u>6,266,000</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((30,755,000))</b></del>
		<u><b>31,353,000</b></u>

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

(1) If House Bill No. 2119 (professional athletic commission) is not enacted by June 30, 1993, the general fund appropriation shall be reduced by \$54,000.

(2) \$33,000 of the uniform commercial code account appropriation is provided solely to implement revisions to the uniform commercial code article governing bulk sales. If Substitute House Bill No. 1013 is not enacted by June 30, 1993, \$33,000 of the uniform commercial code account appropriation shall lapse.

(3) \$9,000 of the general fund appropriation is provided solely to implement registration of employment listing agencies. If Engrossed Substitute House Bill No. 1496 is not enacted by June 30, 1993, \$9,000 of the general fund appropriation shall lapse.

(4) \$87,000 of the general fund appropriation is provided solely to implement bail bond agent licensing. If Substitute House Bill No. 1870 is not enacted by June 30, 1993, \$87,000 of the general fund appropriation shall lapse.

~~(5) ((If Substitute Senate Bill No. 5026 is not enacted by June 30, 1993, the entire funeral directors and embalmers account appropriation is null and void. If Substitute Senate Bill No. 5026 is enacted by June 30, 1993, the entire health professions account appropriation is null and void.~~

(6)) \$47,000 of the architects' license account appropriation is provided solely for implementing revised architect experience requirements. If Engrossed Senate Bill No. 5545 is not enacted by June 30, 1993, \$47,000 of the architects' license account appropriation shall lapse.

~~((7) \$187,000 of the mortgage broker licensing account appropriation is provided solely to implement a temporary licensing program for mortgage brokers. If Substitute Senate Bill No. 5829 is not enacted by June 30, 1993, \$187,000 of the mortgage broker licensing account appropriation shall lapse.))~~

Sec. 402. 1993 sp.s. c 24 s 402 (uncodified) is amended to read as follows:

**FOR THE STATE PATROL**

General Fund—State Appropriation . . . . .	\$	<del>((14,223,000))</del>
		<u>10,625,000</u>
General Fund—Federal Appropriation . . . . .	\$	1,037,000
General Fund—Private/Local Appropriation . . . . .	\$	184,000
Death Investigations Account Appropriation . . . . .	\$	24,000
Public Safety and Education Account		
Appropriation . . . . .	\$	<del>((1,000,000))</del>
		<u>4,500,000</u>
<u>Industrial Insurance Premium Refund Account</u>		
Appropriation . . . . .	\$	<u>28,000</u>
Transportation Account Appropriation . . . . .	\$	<u>200,000</u>
TOTAL APPROPRIATION . . . . .	\$	<del>((16,468,000))</del>
		<u>16,598,000</u>

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

(1) ~~\$((802,000))~~ 602,000 of the general fund—state appropriation is provided solely for the lease purchased upgrade and capacity increase of the Automated Fingerprint Identification System subject to office of financial management approval of a completed feasibility study. The feasibility study will include: The steps and costs required to achieve interoperability with local government fingerprint systems, compliance with the proposed federal bureau of investigation fingerprint standards, a discussion of the issues and costs associated with the potential adoption of "live scan" technology as they relate to the proposed upgrade, the interruption of service that may occur during conversion to the proposed new system, and the long term stability of maintenance contract charges.

(2) \$30,000 of the general fund—state appropriation is provided solely for DNA testing of juveniles under Substitute Senate Bill No. 6007 (crime provisions). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

(3) The agency shall assist the Washington criminal justice training commission in developing a written model policy on vehicular pursuits, as provided in this act.

**PART V  
EDUCATION**

**Sec. 501.** 1993 sp.s. c 24 s 501 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	<del>((34,414,000))</del>
		<u>35,848,000</u>
General Fund—Federal Appropriation . . . . .	\$	33,106,000
Public Safety and Education Account		
Appropriation . . . . .	\$	338,000
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	3,197,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((71,055,000))</del>
		<u>72,489,000</u>

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

**(1) AGENCY OPERATIONS**

(a) \$304,000 of the general fund—state appropriation is provided solely to upgrade the student data collection capability of the superintendent of public instruction.

(b) \$423,000 of the general fund—state appropriation is provided solely for certification investigation activities of the office of professional practices.

(c) ~~\$(770,000))~~ 800,000 of the general fund—state appropriation is provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

~~((e))~~ (d) The entire public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

~~((f))~~ (e) \$10,000 of the general fund—state appropriation is provided solely for a contract through the Washington State Institute for Public Policy at The Evergreen State College for a bilingual education conference to disseminate information on best practices in bilingual instruction, including model programs from other states, and to develop strategies for incorporating the most effective instructional methods into the state’s bilingual curriculum.

(f) The superintendent of public instruction shall provide staffing and research assistance as appropriate to fiscal studies initiated by the legislature of special education, learning assistance, vocational education, and inservice education.

(2) STATE-WIDE PROGRAMS

(a) ~~\$(100,000)~~ 75,000 of the general fund—state appropriation is provided for state-wide curriculum development.

(b) ~~\$(62,000)~~ 93,000 of the general fund—state appropriation is provided for operation of a K-2 education program at Pt. Roberts by the Blaine school district.

(c) \$2,415,000 of the general fund—state appropriation is provided for inservice training and educational programs conducted by the Pacific science center.

(d) \$70,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(e) \$2,949,000 of the general fund—state appropriation is provided for educational clinics, including state support activities.

(f) \$3,437,000 of the general fund—state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(g) \$4,855,000 of the general fund—state appropriation is provided for complex need grants. Grants shall be provided according to funding ratios established in LEAP Document 30B as developed on May 4, 1993, at 11:00 a.m.

(h) \$3,050,000 of the drug enforcement and education account appropriation is provided solely for matching grants to enhance security in secondary schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors in secondary schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(i) Districts receiving allocations from subsection (2) (f) and (g) of this section shall submit an annual report to the superintendent of public instruction on the use of all district resources to address the educational needs of at-risk students in each school building.

(j) \$50,000 of the general fund—state appropriation is provided solely for allocation to the primary coordinators of the state geographic alliance for the purpose of improving the teaching of geography in the common school system.

(k) \$25,000 of the general fund—state appropriation is provided solely for allocation to the Washington state holocaust education resource center for the purpose of reproducing the videotape and teachers guide, "Never Again, I Hope:

The Holocaust," developed by the surviving generations of the holocaust oral history project.

(l) \$1,000,000 of the general fund—state appropriation is provided solely for start-up grants to provide extended day school-to-work transition options for secondary students who are at risk of academic failure, as follows:

(i) \$572,000 is provided to vocational skill centers;

(ii) \$286,000 is provided for award to organizations in urban areas not served by skill centers that are capable of providing programs in the manner of current extended day school-to-work programs at vocational skill centers, and;

(iii) \$142,000 is provided to the state board for community and technical colleges to provide programs in urban areas not served by skill centers in the manner of existing extended day school-to-work programs at vocational skill centers. The state board, after consultation with the superintendent of public instruction, shall develop program guidelines consistent with programs offered at vocational skill centers.

(m) \$403,000 is provided solely for media productions by students at up to 40 sites to focus on issues and consequences of teenage pregnancy and child rearing.

(n) A maximum of \$70,000 is provided for development, in conjunction with the department of health, of best management practices for implementation by local school districts to improve indoor air quality in newly constructed or modernized school facilities. To the extent feasible, the state board of education and department of health shall utilize existing practices developed by other agencies to improve indoor air quality.

**Sec. 502.** 1993 sp.s. c 24 s 502 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR GENERAL APPORTIONMENT (BASIC EDUCATION)**

General Fund Appropriation . . . . . \$ ~~((6,019,646,000))~~  
6,007,518,000

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

(1) The general fund appropriation includes such funds as are necessary for the remaining months of the 1992-93 school year.

(2) Allocations for certificated staff salaries for the 1993-94 and 1994-95 school years shall be determined using formula-generated staff units calculated pursuant to this subsection. 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 for grades K-12, excluding full time equivalent handicapped enrollment recognized for funding purposes under section 507 of this act;

(ii) 49 certificated instructional staff units, as required in RCW 28A.150.260(2)(b), for grades K-3, excluding full time equivalent handicapped students ages six through eight;

(iii) An additional 5.3 certificated instructional staff units for grades K-3;

(A) Funds provided under this subsection (2)(a)(iii) 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 equal to or greater than 54.3 certificated instructional staff per thousand full time equivalent students in grades K-3. For any school district documenting a lower certificated instructional staff ratio, the allocation shall be based on the district's actual grades K-3 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-3 may dedicate up to 1.3 of the 54.3 funding ratio to employ additional classified instructional assistants assigned to basic education classrooms in grades K-3. 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 equal to or greater than 54.3 certificated instructional staff per thousand full time equivalent students in grades K-3 may use allocations generated under this subsection (2)(a)(iii) 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 4-6. Funds allocated under this subsection (2)(a)(iii) 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; and

(iv) Forty-six certificated instructional staff units for grades 4-12, excluding full time equivalent handicapped students ages nine and above; and

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

(c) On the basis of full time equivalent enrollment in vocational education programs and skill center programs approved by the superintendent of public instruction, 0.92 certificated instructional staff units and 0.08 certificated administrative staff units for each 16.67 full time equivalent vocational students;

(d) For districts enrolling not more than twenty-five average annual full time equivalent students in 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 seven and eight, 1.76 certificated instructional staff units and 0.24 certificated administrative staff units for enrollment of not more than five students, plus one-twentieth of a certificated instructional staff unit for each additional student enrolled; and

(ii) For those enrolling students in grades 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 and handicapped full time equivalent students.

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

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

(3) Allocations for classified salaries for the 1993-94 and 1994-95 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 but excluding handicapped full time equivalent enrollments, one classified staff unit for each sixty average annual full time equivalent students.

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

(4) Fringe benefit allocations shall be calculated at a rate of 21.29 percent in the 1993-94 school year and 21.29 percent in the 1994-95 school year of certificated salary allocations provided under subsection (2) of this section, and a rate of 18.73 percent in the 1993-94 school year and 18.73 percent in the 1994-95 school year of classified salary allocations provided under subsection (3) of this section.

(5) Insurance benefit allocations shall be calculated at the rates specified in section 504 of this act, based on:

(a) The number of certificated staff units determined in subsection (2) of this section; and

(b) The number of classified staff units determined in subsection (3) of this section multiplied by 1.152. This factor is intended to adjust allocations so that, for the purposes of distributing insurance benefits, full time equivalent classified employees may be calculated on the basis of 1440 hours of work per year, with no individual employee counted as more than one full time equivalent.

(6)(a) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2) (a), (b), and (d) through (h) of this section, there shall be provided a maximum of \$7,251 per certificated staff unit in the 1993-94 school year and a maximum of (~~(\$7,468)~~) \$7,439 per certificated staff unit in the 1994-95 school year.

(b) For nonemployee-related costs associated with each certificated staff unit allocated under subsection (2)(c) of this section, there shall be provided a

maximum of \$13,817 per certificated staff unit in the 1993-94 school year and a maximum of (~~(\$14,234)~~) \$14,176 per certificated staff unit in the 1994-95 school year.

(7) Allocations for substitute costs for classroom teachers shall be distributed at a maximum rate of \$341 for the 1993-94 school year and \$341 per year for the 1994-95 school year for allocated classroom teachers. Solely for the purposes of this subsection, allocated classroom teachers shall be equal to the number of certificated instructional staff units allocated under subsection (2) of this section, multiplied by the ratio between the number of actual basic education certificated teachers and the number of actual basic education certificated instructional staff reported state-wide for the 1992-93 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 (~~(\$4,945,000)~~) \$4,953,000 outside the basic education formula during fiscal years 1994 and 1995 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 \$409,000 may be expended in fiscal year 1994 and a maximum of (~~(\$410,000)~~) \$419,000 may be expended in fiscal year 1995.

(b) For summer vocational programs at skills centers, a maximum of \$1,905,000 may be expended in fiscal year 1994 and a maximum of \$1,924,000 may be expended in fiscal year 1995.

(c) A maximum of (~~(\$297,000)~~) \$296,000 may be expended for school district emergencies.

(10) The superintendent shall distribute a maximum of \$18,750,000 outside the basic education formula for the purchase of instructional materials and technology related investments to improve learning for all students. The superintendent shall allocate the funds at a maximum rate of \$20.61 per full time equivalent student, beginning September 1, 1994, and ending June 30, 1995, except that each skill center shall be allocated \$40,000 instead of receiving a per student allocation from participating school districts. The expenditure of the funds shall be determined at each school site by the school building staff, parents, and the community where site-based decision-making has been adopted or, where not adopted, by the building staff including itinerant teachers. Expenditures on technology investments by a school site should, to the greatest extent possible, be consistent with the district's technology plan. School districts shall distribute all funds received without deduction for indirect costs. Funds

provided by this subsection do not fall within the definition of basic education under Article IX of the state Constitution.

(11) For the purposes of RCW 84.52.0531, the increase per full time equivalent student in state basic education appropriations provided under this act, including appropriations for salary and benefits increases, is 1.0 percent from the 1992-93 school year to the 1993-94 school year, and 1.0 percent from the 1993-94 school year to the 1994-95 school year.

~~((H))~~ (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.** 1993 sp.s. c 24 s 504 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR SCHOOL EMPLOYEE INSURANCE BENEFIT ADJUSTMENTS**

General Fund Appropriation . . . . . \$ ~~((22,570,000))~~  
3,539,000

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

(1) Allocations for insurance benefits from general fund appropriations provided under section 502 of this act shall be calculated at a rate of \$317.79 per month for each certificated staff unit, and for each classified staff unit adjusted pursuant to section 502(5)(b) of this act.

(2) The appropriation in this section is provided solely to increase insurance benefit allocations for state-funded certificated and classified staff for the 1994-95 school year, effective October 1, 1994, to a rate of ~~((350.25))~~ \$322.90 as distributed pursuant to this section. The rates specified in this section are subject to revision each year by the legislature.

(a) Effective October 1, 1994, for the 1994-95 school year, an increase of ~~((32.46))~~ \$5.11 in insurance benefit allocations per month is provided for state-funded staff units in the following programs: General apportionment under section 502(5) of this act; handicapped program under section 507 of this act; educational service districts under section 509 of this act; and institutional education under section 512 of this act.

(b) The increases in insurance benefit allocations for the following categorical programs shall be calculated by increasing the annual state funding

rates by the amounts specified in this subsection. Effective October 1, 1994, the maximum rate adjustments provided on an annual basis under this section for the 1994-95 school year are:

- (i) For pupil transportation, an increase of (~~(\$30)~~) \$ .05 per weighted pupil-mile for the 1994-95 school year;
- (ii) For learning assistance, an increase of (~~(\$8.11)~~) \$1.28 per pupil for the 1994-95 school year;
- (iii) For education of highly capable students, an increase of (~~(\$2.06)~~) \$ .32 per pupil for the 1994-95 school year;
- (iv) For transitional bilingual education, an increase of (~~(\$5.25)~~) \$ .83 per pupil for the 1994-95 school year.

**Sec. 504.** 1993 sp.s. c 24 s 505 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PUPIL TRANSPORTATION**

General Fund Appropriation . . . . .	\$	( <del>351,143,000</del> )
		<u>344,886,000</u>

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

(1) The appropriation includes such funds as are necessary for the remaining months of the 1992-93 school year.

(2) (~~A maximum of \$795,000 may be expended for regional transportation coordinators. However, to the extent practicable, the superintendent of public instruction shall consolidate the functions of the regional transportation coordinators and regional traffic safety education coordinators in order to increase efficiency in the delivery of services state wide.~~) A maximum of \$1,072,000 may be expended for regional transportation coordinators and related activities. The transportation coordinators shall:

(a) 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;

(b) Prepare a catalog of hazardous walking conditions submitted for state funding by each school district by category such as: Type of hazard; number of years the hazard has been submitted for reimbursement (to the extent known); potential for mitigation; entity that would be responsible for mitigation; and status of mitigation effort, if any;

(c) Regarding small schools receiving bonus units under section 502 of this act, for comparison purposes, prepare an analysis of travel times for students to contiguous school districts. The analysis shall be submitted to the office of financial management and the fiscal committees of the legislature by December 1, 1994; and

(d) Prepare an analysis of the small fleet rate contained in the state transportation allocation formula. The analysis shall be submitted to the office

of financial management and the fiscal committees of the legislature by December 1, 1994.

The superintendent of public instruction shall, to the extent possible, consolidate the functions of regional transportation coordinators and regional traffic safety education coordinators in order to increase efficiency in the delivery of services state-wide.

(3) For eligible school districts, the small-fleet maintenance factor shall be funded at a rate of \$1.74 in the 1993-94 school year and (~~(\$1.80)~~) \$1.79 in the 1994-95 school year per weighted pupil-mile.

(4) \$180,000 is 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. The superintendent shall provide a report to the appropriate policy and fiscal committees of the legislature concerning the use of these moneys by November 1, 1993.

(5) The superintendent of public instruction shall evaluate current and alternative methods of purchasing school buses and propose the most efficient and effective method for purchasing school buses. The superintendent shall submit a report to the house appropriations committee and the senate ways and means committee by December 15, 1993. Any future proposals for purchasing school buses for schools in the state of Washington shall incorporate the most cost effective method found as a result of this evaluation.

**Sec. 505.** 1993 sp.s. c 24 s 507 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR HANDICAPPED EDUCATION PROGRAMS**

General Fund—State Appropriation . . . . .	\$	<del>(867,311,000)</del>
		<u>870,001,000</u>
General Fund—Federal Appropriation . . . . .	\$	98,684,000
TOTAL APPROPRIATION . . . . .	\$	<del>(965,995,000)</del>
		<u>968,685,000</u>

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

(1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1992-93 school year.

(2) The superintendent of public instruction shall distribute state funds for the 1993-94 and 1994-95 school years in accordance with districts' handicapped enrollments and the allocation model established in LEAP Document 13 as developed on (~~March 22, 1993, at 13:13~~) January 31, 1994, at 15:30 hours, and in accordance with Substitute Senate Bill No. 5727 (Title XIX funding), if enacted.

(3) A maximum of \$678,000 may be expended from the general fund—state appropriation 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 handicapped program.

(4) \$1,000,000 of the general fund--federal appropriation is provided solely for projects to provide handicapped 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.

(5) The superintendent of public instruction shall distribute salary and fringe benefit allocations for state supported staff units in the handicapped education program in the same manner as is provided for basic education program staff.

**Sec. 506.** 1993 sp.s. c 24 s 509 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR EDUCATIONAL SERVICE DISTRICTS**

General Fund Appropriation . . . . .	\$	<del>(9,891,000)</del>
		<u>10,016,000</u>

The appropriation in this section is 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)~~ \$375,000 of the general fund appropriation is provided solely for student teaching centers as provided in RCW 28A.415.100.

(3) \$400,000 of the general fund appropriation is provided solely to implement Substitute Senate Bill No. 5889 (collaborative development school projects). If the bill is not enacted by June 30, 1993, the amount provided in this subsection shall lapse.

(4) \$400,000 in savings is assumed from implementation of the efficiency and boundary study as provided in section 521 of this act and RCW 28A.500.010.

**Sec. 507.** 1993 sp.s. c 24 s 512 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR INSTITUTIONAL EDUCATION PROGRAMS**

General Fund—State Appropriation . . . . .	\$	<del>(22,869,000)</del>
		<u>26,318,000</u>
General Fund—Federal Appropriation . . . . .	\$	8,548,000
TOTAL APPROPRIATION . . . . .	\$	<del>(31,417,000)</del>
		<u>34,866,000</u>

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

(1) The general fund—state appropriation includes such funds as are necessary for the remaining months of the 1992-93 school year.

(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) Average staffing ratios for each category of institution shall not exceed the rates specified in the legislative budget notes.

**Sec. 508.** 1993 sp.s. c 24 s 513 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR PROGRAMS FOR HIGHLY CAPABLE STUDENTS**

General Fund Appropriation . . . . . \$ ~~((8,983,000))~~  
8,939,000

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

- (1) The appropriation includes such funds as are necessary for the remaining months of the 1992-93 school year.
- (2) Allocations for school district programs for highly capable students shall be distributed for up to one and one-half percent of each district's full time equivalent basic education act enrollment.
- (3) \$435,000 of the appropriation is for the Centrum program at Fort Worden state park.

**Sec. 509.** 1993 sp.s. c 24 s 515 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR TRANSITIONAL BILINGUAL PROGRAMS**

General Fund Appropriation . . . . . \$ ~~((46,940,000))~~  
47,057,000

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

- (1) The appropriation provides such funds as are necessary for the remaining months of the 1992-93 school year.
- (2) The superintendent shall distribute a maximum of \$628.90 per eligible bilingual student in the 1993-94 and the 1994-95 school years.

**Sec. 510.** 1993 sp.s. c 24 s 516 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR THE LEARNING ASSISTANCE PROGRAM**

General Fund Appropriation . . . . . \$ ~~((108,456,000))~~  
107,913,000

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

- (1) The appropriation provides such funds as are necessary for the remaining months of the 1992-93 school year.
- (2) For making the calculation of the percentage of students scoring in the lowest quartile as compared with national norms, beginning with the 1991-92 school year, the superintendent shall multiply each school district's 4th and 8th grade test results by 0.86.

(3) Funding for school district learning assistance programs serving kindergarten through grade nine shall be distributed during the 1993-94 and 1994-95 school years at a maximum rate of \$470 per student eligible for learning assistance programs.

(4) The superintendent of public instruction shall develop a new allocation formula as required under section 520 of this act.

**Sec. 511.** 1993 sp.s. c 24 s 517 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—LOCAL ENHANCEMENT FUNDS**

General Fund Appropriation . . . . .	\$	((47,832,000))
		<u>47,587,000</u>

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

(1) The appropriation provides such funds as are necessary for the remaining months of the 1992-93 school year.

(2) School districts receiving moneys pursuant to this section shall expend such moneys to meet educational needs as identified by the school district. Program enhancements funded pursuant to this section do not fall within the definition of basic education for purposes of Article IX of the state Constitution and the state's funding duty thereunder, nor shall such funding constitute levy reduction funds for purposes of RCW 84.52.0531.

(3) Allocations to school districts shall be calculated on the basis of full time enrollment at an annual rate of up to \$26.30 per student. 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 60 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 20 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 60 average annual full time equivalent students in grades nine through twelve shall generate funding based on sixty full time equivalent students.

(4) Receipt by a school district of one-fourth of the district's allocation of funds under this section for the 1994-95 school year, as determined by the superintendent of public instruction, shall be conditioned on a finding by the superintendent that the district is enrolled as a medicaid service provider and is actively pursuing federal matching funds for medical services provided through special education programs, pursuant to Substitute Senate Bill No. 5727 (Title XIX funding). If Substitute Senate Bill No. 5727 is not enacted by June 30, 1993, the limitations imposed by this subsection shall not take effect.



**Sec. 512.** 1993 sp.s. c 24 s 518 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—EDUCATIONAL REFORM PROGRAMS**

General Fund Appropriation . . . . . \$ ~~((57,990,000))~~  
76,174,000

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

(1) ~~((23,000,000 is provided solely for resources and planning time for the 1994-95 school year for certificated staff to implement education reform under the requirements of Engrossed Substitute House Bill No. 1209 (education reform).))~~ \$39,934,000 is provided for student learning improvement grants for the 1994-95 school year to implement education reform under RCW 28A.300.138. The grants shall be allocated based on the number of full time equivalent certificated staff employed in eligible schools of a district. The allocation shall not exceed \$800 per full time equivalent certificated staff and shall be allocated in fiscal year 1995, beginning September 1, 1994.

(2) ~~\$2,190,000 is provided solely for ((paraprofessional training for classified staff. Resources and planning time for classified staff will be provided through the paraprofessional training program funded in this act))~~ training of paraprofessional classroom assistants and classroom teachers to whom the assistants are assigned.

(3) \$3,900,000 is provided solely for the twenty-first century pilot programs for the remaining months of the 1992-93 school year and for the 1993-94 school year.

(4) \$3,317,000 is provided solely for the operation of the commission on student learning under Engrossed Substitute House Bill No. 1209 (education reform). The commission on student learning shall report on a regular basis regarding proposed activities and expenditures of the commission.

(5) \$1,683,000 is provided solely for development of assessments as required in Engrossed Substitute House Bill No. 1209 (education reform).

(6) ~~((1,800,000))~~ \$2,550,000 is provided for school-to-work transition projects in the common schools, including state support activities, under Engrossed Substitute House Bill No. 1209 (education reform) and Engrossed Substitute House Bill No. 1820 (school-to-work transition).

(7) \$3,300,000 is provided for mentor teacher assistance, including state support activities, under Engrossed Substitute House Bill No. 1209 (education reform). Of this amount, \$400,000 is provided to establish one to three pilot projects pairing full-time mentor teachers with experienced teachers who are having difficulties and full-time mentor teachers with beginning teachers, as authorized under section 402 of Engrossed Substitute House Bill No. 1209.

(8) \$900,000 is provided for superintendent and principal internships, including state support activities, under Engrossed Substitute House Bill No. 1209 (education reform).

(9) \$4,500,000 is provided for improvement of technology infrastructure and educational technology support centers, including state support activities, under Engrossed Substitute House Bill No. 1209 (education reform).

(10) \$8,000,000 is 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 part IX of Engrossed Substitute House Bill No. 1209 (education reform).

(11) \$5,000,000 is provided solely for the meals for kids program under Substitute Senate Bill No. 5971 (school meals) and shall be distributed as follows:

(a) \$442,000 is provided solely for start-up grants for schools not eligible for federal start-up grants and for summer food service programs.

(b) \$4,558,000 is provided solely to increase the state subsidy for free and reduced-price breakfasts.

(12) ~~(\$400,000)~~ \$900,000 is provided for technical assistance related to education reform through the office of the superintendent of public instruction, in consultation with the commission on student learning, as specified in ~~(section 501 of Engrossed Substitute House Bill No. 1209)~~ RCW 28A.300.130 (center for the improvement of student learning).

**Sec. 513.** RCW 28A.310.020 and 1993 sp.s. c 24 s 522 are each amended to read as follows:

The state board of education upon its own initiative, or upon petition of any educational service district board, or upon petition of at least half of the district superintendents within an educational service district, or upon request of the superintendent of public instruction, may make changes in the number and boundaries of the educational service districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.310.010: PROVIDED, That no reduction in the number of educational service districts will take effect after June 30, 1995, without a majority approval vote by the affected school directors voting in such election by mail ballot. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: ~~((1))~~ Size, population, topography, and climate of the proposed district ~~(; and (2) costs associated with the governance, administration, and operation of the educational service district system in whole or part).~~

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable educational service district boards and superintendents to consider the proposed changes.

**NEW SECTION. Sec. 514.** A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

Section 513 of this 1994 act is intended to restore RCW 28A.310.020 to its status prior to its amendment by chapter 24, Laws of 1993 sp. sess.

**Sec. 515.** 1993 sp.s. c 24 s 521 (uncodified) is amended to read as follows: **EDUCATIONAL SERVICE DISTRICTS.** It is the intent of the legislature that the superintendent of public instruction in conjunction with the state board of education conduct a study of educational service district boundaries. The purpose of the study shall be to develop a more cost effective and efficient service delivery system for educational service district programs. As soon as practicable, the superintendent of public instruction shall develop and submit a reorganization proposal to the state board of education for implementation by July 1, ((1994)) 1995.

**NEW SECTION. Sec. 516.** A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**FOR THE STATE BOARD OF EDUCATION—COMMON SCHOOL CONSTRUCTION**

General Fund Appropriation . . . . . \$ 15,250,000

The appropriation in this section is subject to the following conditions and limitations: The state board of education shall verify that projects authorized for state matching funds under the state omnibus capital budget are completed according to the purposes for which the state matching funds are provided.

**NEW SECTION. Sec. 517.** A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**COMPACT FOR EDUCATION.** By June 30, 1994, the governor shall give notice pursuant to RCW 28A.695.010 of the state's intention to withdraw from the compact for education under chapter 28A.695 RCW. For the purposes of completing the state's obligation under chapter 28A.695 RCW (chapter 83, Laws of 1967, as amended), which is hereby repealed, \$119,000 from the state general fund is appropriated for the biennium ending June 30, 1995.

**PART VI  
HIGHER EDUCATION**

**Sec. 601.** 1993 sp.s. c 24 s 601 (uncodified) is amended to read as follows:

The appropriations in sections 602 through 610 of this act are subject to the following conditions and limitations:

- (1) "Institutions of higher education" means the institutions receiving appropriations under sections 602 through 608 of this act.
- (2) The general fund—state appropriations in sections 602 through 608 of this act represent significant reductions in current funding levels. In order to

provide each institution of higher education with the capability of effectively managing within their unique requirements, some flexibility in implementing these reductions is permitted. This will assure the continuation of the highest quality higher education system possible within available resources. In establishing spending plans for the next biennium, each institution shall address the needs of its students in keeping with the following directives: (a) Establishing reductions of a permanent nature by avoiding short term solutions; (b) not reducing enrollments below budgeted levels; (c) maintaining the current resident to nonresident student proportions; (d) protecting undergraduate programs and support services; (e) protecting assessment activities; (f) protecting minority recruitment and retention efforts; (g) protecting the state's investment in facilities; (h) using institutional strategic plans as a guide for reshaping institutional expenditures; and (i) increasing efficiencies through administrative reductions, program consolidation, the elimination of duplication, the use of other resources, and productivity improvements. Each institution of higher education and the state board for community and technical colleges shall submit a report to the legislative fiscal committees by July 1, 1993, on their spending plans for the 1993-95 biennium. The report should address the approach taken with respect to each of the directives in this subsection. A second report responding to the same directives shall be submitted by November 1, 1993, which describes the implementation of the spending plan and its effects.

(3) For the 1995-97 biennium, it is the intent of the legislature to make further efficiency reductions in higher education. Related savings will go toward funding compensation increases. Reductions will be two and four-tenths percent of 1993-95 general fund—state appropriations for four-year institutions and two percent for the community and technical college system. Institutions will be given maximum flexibility in implementing these reductions. However, each institution shall address the needs of its students by not reducing enrollments below budgeted levels. In order to accomplish this, institutions are encouraged to begin a review of instructional programs to identify duplicative and low-productivity programs for possible consolidation or termination.

(4) The appropriations in sections 602 through 608 of this act provide state general fund support for student full time equivalent enrollments at each institution of higher education. The state general fund budget is further premised on a level of specific student tuition revenue collected into and expended from the institutions of higher education—general local accounts. Listed below are the annual full time equivalent student enrollments by institution assumed in this act.

	1993-94 Annual Average FTE	1994-95 Annual Average FTE
<b>University of Washington</b>		
Main campus . . . . .	29,762	29,826
Evening Degree Program . . . . .	465	525
Tacoma branch . . . . .	450	490
Bothell branch . . . . .	427	449
<b>Washington State University</b>		
Main campus . . . . .	15,965	15,991
Spokane branch . . . . .	248	258
Tri-Cities branch . . . . .	519	541
Vancouver branch . . . . .	511	595
Central Washington University . .	6,666	6,810
Eastern Washington University . .	7,429	7,573
The Evergreen State College . . . .	3,226	3,258
Western Washington University . .	9,216	9,360
State Board for Community and Technical Colleges . . . . .	107,670	110,386
Higher Education Coordinating Board . . . . .	50	50

Sec. 602. 1993 sp.s. c 24 s 602 (uncodified) is amended to read as follows:

**FOR THE STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES**

General Fund—State Appropriation . . . . .	\$	((676,763,000))
		<u>674,899,000</u>
General Fund—Federal Appropriation . . . . .	\$	11,403,000
Industrial Insurance Premium Refund		
Account Appropriation . . . . .	\$	12,000
Employment and Training Trust		
Fund Appropriation . . . . .	\$	35,120,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>((723,298,000))</b>
		<u>721,434,000</u>

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

(1) \$2,883,000 of the general fund—state appropriation is provided solely for 500 supplemental FTE enrollment slots to implement section 17, chapter 315, Laws of 1991 (timber-dependent communities).

(2) \$35,120,000 of the employment and training trust fund appropriation is provided solely for training and related support services specified in Engrossed Substitute House Bill No. 1988 (employment and training). Of this amount:

(a) \$27,630,000 shall provide enrollment opportunity for 3,500 full time equivalent students in fiscal year 1994 and 5,000 full time equivalent students in fiscal year 1995. The state board for community and technical colleges shall allocate the enrollments, with a minimum of 225 each year to Grays Harbor College;

~~(b) ((\$3,245,000 shall provide child care for the children of the student enrollments funded in (a) of this subsection;~~

~~(c) \$500,000 shall provide transportation funding for the student enrollments funded in (a) of this subsection;~~

~~(d) \$3,745,000 shall provide financial aid for the student enrollments funded in (a) of this subsection))~~ \$7,490,000 shall provide child care assistance, transportation, and financial aid for the student enrollments funded in (a) of this subsection.

If Engrossed Substitute House Bill No. 1988 is not enacted by June 30, 1993, this appropriation shall lapse.

(3) ~~\$(3,425,000)~~ 3,725,000 of the general fund—state appropriation is provided solely for assessment of student outcomes at community and technical colleges.

(4) \$1,412,000 of the general fund—state appropriation is provided solely to recruit and retain minorities.

(5) For purposes of RCW 28B.15.515(2), there is no upper enrollment variance limit and college districts may enroll students above the general fund—state level.

(6) For fiscal year 1994, the appropriations in this section shall not be used for salary increases including increments, but may be used for increments required to be paid under chapter 41.56 or 41.06 RCW except as restricted under section 913 of this act.

(7) For fiscal year 1995, colleges allocated funds from appropriations in this section shall not grant salary increases from any fund source, but may grant increments to classified staff and full-time faculty whose annual base salary is less than \$45,000. Faculty increments shall be effective during the first month of the academic year. Funding of increments for faculty is limited to savings available from full-time faculty turnover and a maximum of \$1,140,000 of the general fund—state appropriation. Section 915, chapter 224, Laws of 1993 sp. sess. does not apply to the increases authorized under this subsection.

~~(8) \$(150,000)~~ 297,000 of the general fund—state appropriation is provided solely for the two-plus-two program at Olympic College.

~~((8))~~ (9) \$3,364,000 of the general fund—state appropriation is provided solely for instructional equipment for technical colleges.

(10) For fiscal year 1995, technical colleges may increase tuition and fees to conform with the percentage increase in community college operating fees authorized in chapter 18, Laws of 1993 sp. sess., notwithstanding RCW 43.135.055.

(11) \$225,000 of the general fund—state appropriation is provided solely to implement Substitute House Bill No. 2210 (creating a new community college district). If the bill is not enacted by June 30, 1994, the amount provided in this subsection shall lapse.

(12) \$1,000,000 of the general fund—state appropriation is provided for instructional equipment purchases for community and technical colleges. Each college district shall match its allocation of this appropriation with an equal amount of funds from private or other noncollege sources.

\*Sec. 603. 1993 sp.s. c 24 s 603 (uncodified) is amended to read as follows:

**FOR THE UNIVERSITY OF WASHINGTON**

General Fund Appropriation . . . . .	\$	<del>((507,618,000))</del>
		<u>504,130,000</u>
Medical Aid Fund Appropriation . . . . .	\$	<del>((3,756,000))</del>
		<u>4,083,000</u>
Accident Fund Appropriation . . . . .	\$	<del>((3,762,000))</del>
		<u>3,840,000</u>
Death Investigations Account Appropriation . . . . .	\$	<del>((1,282,000))</del>
		<u>1,427,000</u>
<i>Oil Spill Administration Account Appropriation . . . . .</i>	<i>\$</i>	<del><i>((236,000))</i></del>
		<i><u>100,000</u></i>
Health Services Account Appropriation . . . . .	\$	5,800,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del><b>((522,454,000))</b></del>
		<u><b>519,380,000</b></u>

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

(1) ~~\$((10,004,000))~~ 7,201,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Tacoma branch campus.

(2) ~~\$((10,499,000))~~ 7,713,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses offered at the Bothell branch campus.

(3) The University of Washington shall prepare a plan to identify and remedy the cause of disparate market gaps in compensation for professional/exempt employees and librarians. The plan to remedy the causes shall be presented to the legislative fiscal and policy committees by ((January)) July 1, 1994. The plan will delineate what corrective actions the university will implement, independent of legislative action, in both the short-term and long-term.

(4) \$2,300,000 of the health services account appropriation is provided solely for the implementation of Engrossed Second Substitute Senate Bill No. 5304 (health care reform) to increase the supply of primary health care providers.

If Engrossed Second Substitute Senate Bill No. 5304 is not enacted by June 30, 1993, this appropriation shall lapse.

(5) \$300,000 of the health services account appropriation is provided solely to expand community-based training for physician assistants. If Engrossed Second Substitute Senate Bill No. 5304 is not enacted by June 30, 1993, this appropriation shall lapse.

(6) \$300,000 of the health services account appropriation is provided solely for the advanced registered nurse program. If Engrossed Second Substitute Senate Bill No. 5304 is not enacted by June 30, 1993, this appropriation shall lapse.

(7) \$2,900,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to Engrossed House Bill No. 2123.

(8) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(9) \$648,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(10) The University of Washington shall maintain essential requirements level funding for the family practice residency network within the school of medicine.

(11) \$25,000 of the general fund appropriation is provided solely for the Thomas Burke Memorial Washington State Museum for meeting obligations created by the federal Native American Graves Protection and Repatriation Act of 1991, and for assistance in preparing rare Oligocene period whale fossils found on the Olympic Peninsula.

(12) The Death Investigation Council, in consultation with the Washington state toxicology laboratory, shall prepare a plan for billing clients for services. The plan is to be implemented in 1995-97, and revenue from client billings shall be sufficient to cover the projected budget deficit for 1995-97.

\*Sec. 603 was partially vetoed, see message at end of chapter.

**Sec. 604.** 1993 sp.s. c 24 s 604 (uncodified) is amended to read as follows:  
**FOR WASHINGTON STATE UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((292,460,000))</del>
		290,469,000
Health Services Account Appropriation . . . . .	\$	1,400,000
TOTAL APPROPRIATION . . . . .	\$	<del>((293,860,000))</del>
		291,869,000

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

(1) ~~\$(8,338,000))~~ 7,811,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Vancouver branch campus.



(2) \$~~((6,420,000))~~ 5,697,000 of the general fund appropriation is provided solely to operate upper-division and graduate level courses and other educational services offered at the Tri-Cities branch campus.

(3) \$~~((7,062,000))~~ 6,748,000 of the general fund appropriation is provided solely to operate graduate and professional level courses and other educational services offered at the Spokane branch campus.

(4) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(5) \$280,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(6) \$~~((85,000))~~ 1 of the general fund appropriation is provided solely for the implementation of section 7 of Second Engrossed Substitute House Bill No. 1309 or substantially similar legislation.

(7) \$1,400,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to Engrossed House Bill No. 2123.

(8) \$262,000 of the general fund appropriation is provided solely for the poultry diagnostic lab.

(9) \$120,000 of the general fund appropriation is provided solely for the aquaculture certification center.

(10)(a) To protect children and adults from inappropriate pesticide exposure in public schools, the cooperative extension service shall make available upon request a model integrated pest management program for use by local public school districts. The model program shall maximize reliance on natural pest controls least harmful to people and the environment.

(b) School district implementation of model integrated pest management programs shall involve parents, teachers, and staff.

**Sec. 605.** 1993 sp.s. c 24 s 605 (uncodified) is amended to read as follows:  
**FOR EASTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((72,813,000))</del>
		<u>72,252,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((73,013,000))</del>
		<u>72,452,000</u>

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

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$186,000 of the general fund appropriation is provided solely to recruit and retain minorities.

(3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to Engrossed House Bill No. 2123.

Sec. 606. 1993 sp.s. c 24 s 606 (uncodified) is amended to read as follows:

**FOR CENTRAL WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((66,482,000))</del>
		<u>66,003,000</u>

Industrial Insurance Premium Refund Account

<u>Appropriation</u> . . . . .	\$	10,000
Health Services Account Appropriation . . . . .	\$	140,000
TOTAL APPROPRIATION . . . . .	\$	<del>((66,622,000))</del>
		<u>66,153,000</u>

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

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$140,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) \$140,000 of the health services account appropriation is provided solely for health for benefits teaching and research assistants pursuant to Engrossed House Bill No. 2123.

Sec. 607. 1993 sp.s. c 24 s 607 (uncodified) is amended to read as follows:

**FOR THE EVERGREEN STATE COLLEGE**

General Fund Appropriation . . . . .	\$	<del>((37,207,000))</del>
		<u>36,899,000</u>

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

- (1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.
- (2) \$94,000 of the general fund appropriation is provided solely to recruit and retain minorities.
- (3) \$410,000 of the general fund(~~—state~~) appropriation is provided solely for the public schools partnership program.
- (4) \$976,000 of the general fund appropriation is provided solely for the Washington state institute for public policy to conduct studies requested by the legislature.

Sec. 608. 1993 sp.s. c 24 s 608 (uncodified) is amended to read as follows:

**FOR WESTERN WASHINGTON UNIVERSITY**

General Fund Appropriation . . . . .	\$	<del>((81,618,000))</del>
		<u>81,088,000</u>
Health Services Account Appropriation . . . . .	\$	200,000
TOTAL APPROPRIATION . . . . .	\$	<del>((81,818,000))</del>
		<u>81,288,000</u>

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

(1) \$372,000 of the general fund appropriation is provided solely for assessment of student outcomes.

(2) \$186,000 of the general fund appropriation is provide solely to recruit and retain minorities.

(3) \$200,000 of the health services account appropriation is provided solely for health benefits for teaching and research assistants pursuant to Engrossed House Bill No. 2123.

**Sec. 609.** 1993 sp.s. c 24 s 609 (uncodified) is amended to read as follows:  
**FOR THE HIGHER EDUCATION COORDINATING BOARD—POLICY COORDINATION AND ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	((4,018,000))
		<u>7,319,000</u>
General Fund—Federal Appropriation . . . . .	\$	265,000
TOTAL APPROPRIATION . . . . .	\$	((4,283,000))
		<u>7,584,000</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) \$717,000 of the general fund—state appropriation is provided solely for enrollment to implement sections 18 through 21, chapter 315, Laws of 1991 (timber dependent communities). The number of students served shall be 50 full time equivalent students per fiscal year.

(2) \$2,500,000 of the general fund—state appropriation is provided for transfer to the Washington distinguished professorship trust fund.

(a) For the biennium ending June 30, 1995, all appropriations to the Washington distinguished professorship trust fund shall be allocated as provided in this subsection. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts for distinguished professorships have been deposited pursuant to RCW 28B.10.866 through 28B.10.874:

- (i) \$750,000 of the appropriation for the University of Washington;
- (ii) \$750,000 of the appropriation for Washington State University;
- (iii) \$250,000 of the appropriation for Eastern Washington University;
- (iv) \$250,000 of the appropriation for Central Washington University;
- (v) \$250,000 of the appropriation for Western Washington University;
- (vi) \$250,000 of the appropriation for The Evergreen State College.

(b) As of June 30, 1995, if any funds reserved in (a) of this subsection have not been designated as matching funds for qualifying gifts, any four-year institution of higher education that has otherwise fully utilized the professorships allocated to it by this subsection may be eligible for such funds under rules established by the higher education coordinating board.

(3) \$900,000 of the general fund—state appropriation is provided solely for transfer to the Washington graduate fellowship trust fund.

(a) For the biennium ending June 30, 1995, all appropriations to the Washington graduate fellowship trust fund shall be allocated as provided in this subsection. The state treasurer shall reserve the following amounts in the trust fund for distribution to four-year higher education institutions at such time as qualifying gifts for graduate fellows have been deposited:

- (i) \$100,000 of the appropriation for Eastern Washington University;
- (ii) \$100,000 of the appropriation for Central Washington University;
- (iii) \$100,000 of the appropriation for Western Washington University;
- (iv) \$100,000 of the appropriation for The Evergreen State College;
- (v) \$250,000 of the appropriation for the University of Washington;
- (vi) \$250,000 of the appropriation for Washington State University.

(b) As of June 30, 1995, if any funds reserved in (a) of this subsection have not been designated as matching funds for qualifying gifts, any four-year institution of higher education that has otherwise fully utilized the fellowships allocated to it by this subsection may be eligible for such funds under rules established by the higher education coordinating board.

\*Sec. 610. 1993 sp.s. c 24 s 610 (uncodified) is amended to read as follows:

**FOR THE HIGHER EDUCATION COORDINATING BOARD—FINANCIAL AID AND GRANT PROGRAMS**

General Fund—State Appropriation . . . . .	\$	<del>((126,315,000))</del>
		<u>126,607,000</u>
General Fund—Federal Appropriation . . . . .	\$	6,381,000
Health Services Account Appropriation . . . . .	\$	2,230,000
State Education Grant Account Appropriation . . . . .	\$	40,000
TOTAL APPROPRIATION . . . . .	\$	<del>((134,966,000))</del>
		<u>135,258,000</u>

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

- (1) \$1,044,000 of the general fund—state appropriation is provided solely for the displaced homemakers program.
- (2) \$2,000,000 of the health services account appropriation is provided solely for scholarships and loans under chapter 28B.115 RCW, health professional conditional scholarship program. If Engrossed Second Substitute Senate Bill No. 5304 (health care reform) is not enacted by June 30, 1993, this appropriation shall lapse.
- (3) \$230,000 of the health services account appropriation is provided solely for the health personnel resources plan. If Engrossed Second Substitute Senate Bill No. 5304 is not enacted by June 30, 1993, this appropriation shall lapse.
- (4) \$431,000 of the general fund—state appropriation is provided solely for the western interstate commission for higher education.

~~(5)~~ ~~\$(124,840,000)~~ 124,770,000 of the general fund—state appropriation is provided solely for student financial aid, including all administrative costs. Of this amount:

*(a) \$95,039,000 is provided solely for the state need grant program. Of this amount, a maximum of \$249,000 may be expended to establish postsecondary education resources centers through the early intervention scholarship program to the extent that an equal amount of federal matching funds are also provided. The board shall, to the best of its ability, rank and serve students eligible for the state need grant and the early intervention scholarship program in order from the lowest family income to the highest family income. Any state need grant moneys not awarded by April 1st of each year may be transferred to the state work study program.*

(b) \$24,200,000 is provided solely for the state work study program.

(c) \$1,000,000 is provided solely for educational opportunity grants.

(d) A maximum of ~~\$(2,698,000)~~ 2,628,000 may be expended for financial aid administration.

~~(((5) \$2,800,000 of the general fund—federal appropriation is provided solely for state need grants for students participating in the federal job opportunities and basic skills program (JOBS).~~

~~(6))~~ (e) \$50,000 ~~((of the general fund—state appropriation))~~ is provided solely for a demonstration project that matches money raised for scholarships by new local chapters of the Citizen’s Scholarship Foundation of America. To be eligible to receive a state matching grant, the new chapter must be created after June 30, 1993. Each chapter is limited to one matching grant and must raise at least \$2,000 before receiving matching funds.

~~(((7) \$288,000 of the general fund—state appropriation))~~ (f) \$650,000 is provided solely for the educator’s excellence awards, which includes \$53,000 transferred from the office of the superintendent of public instruction. \$61,000 of the amount provided in this subsection is provided solely to implement Senate Bill No. 6074 (award for excellence in education). If the bill is not enacted by June 30, 1994, \$61,000 of the general fund—state appropriation shall lapse.

(6) \$2,800,000 of the general fund—federal appropriation is provided solely for state need grants for students participating in the federal job opportunities and basic skills program (JOBS).

\*Sec. 610 was partially vetoed, see message at end of chapter.

Sec. 611. 1993 sp.s. c 24 s 611 (uncodified) is amended to read as follows:

**FOR THE JOINT CENTER FOR HIGHER EDUCATION**

General Fund Appropriation . . . . . \$ ~~((711,000))~~  
917,000

Sec. 612. 1993 sp.s. c 24 s 612 (uncodified) is amended to read as follows:

**FOR THE WORK FORCE TRAINING AND EDUCATION COORDINATING BOARD**

General Fund—State Appropriation . . . . . \$ ~~((3,517,000))~~

		<u>3,447,000</u>
General Fund—Federal Appropriation . . . . .	\$	34,651,000
TOTAL APPROPRIATION . . . . .	\$	((38,168,000))
		<u>38,098,000</u>

The appropriations in this section are subject to the following conditions and limitations: In order for the agency to accomplish both its federally assigned and state responsibilities under chapter 28C.18 RCW, it may, with the concurrence of the office of financial management, exercise discretion in restructuring its general fund—state and general fund—federal resources within allowed FTE staff totals.

**Sec. 613.** 1993 sp.s. c 24 s 614 (uncodified) is amended to read as follows:  
**FOR WASHINGTON STATE LIBRARY**

General Fund—State Appropriation . . . . .	\$	((14,062,000))
		<u>14,172,000</u>
General Fund—Federal Appropriation . . . . .	\$	4,796,000
General Fund—Private/Local Appropriation . . . . .	\$	46,000
TOTAL APPROPRIATION . . . . .	\$	((18,904,000))
		<u>19,014,000</u>

The appropriations in this section are subject to the following conditions and limitations: \$2,385,516 of the general fund—state appropriation and \$54,000 from federal funds are provided solely for a contract with the Seattle public library for library services for the blind and physically handicapped.

**Sec. 614.** 1993 sp.s. c 24 s 615 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON STATE ARTS COMMISSION**

General Fund—State Appropriation . . . . .	\$	((4,274,000))
		<u>4,296,000</u>
General Fund—Federal Appropriation . . . . .	\$	934,000
TOTAL APPROPRIATION . . . . .	\$	((5,208,000))
		<u>5,230,000</u>

The appropriations in this section are subject to the following conditions and limitations: The portion of the general fund appropriation provided for the institutional and organizational support programs shall be awarded to applicants that have not added to any accumulated deficit in the most recently completed fiscal year. Applicants that provide artistic services to communities that are otherwise artistically underserved, are integral to the arts community in which they are based, or that have budgets of less than \$250,000 shall be exempt from this requirement.

**Sec. 615.** 1993 sp.s. c 24 s 616 (uncodified) is amended to read as follows:  
**FOR THE WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation . . . . .	\$	((2,321,000))
		<u>2,325,000</u>

**Sec. 616.** 1993 sp.s. c 24 s 617 (uncodified) is amended to read as follows:

**FOR THE EASTERN WASHINGTON STATE HISTORICAL SOCIETY**

General Fund Appropriation . . . . .	\$	((873,000))
		<u>891,000</u>

Sec. 617. 1993 sp.s. c 24 s 618 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE DEAF**

General Fund—State Appropriation . . . . .	\$	((12,566,000))
		<u>12,557,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	40,000
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>9,000</u>
TOTAL APPROPRIATION . . . . .	\$	12,606,000

Sec. 618. 1993 sp.s. c 24 s 619 (uncodified) is amended to read as follows:

**FOR THE STATE SCHOOL FOR THE BLIND**

General Fund—State Appropriation . . . . .	\$	((6,862,000))
		<u>6,855,000</u>
General Fund—Private/Local Appropriation . . . . .	\$	26,000
<u>Industrial Insurance Premium Refund Account</u>		
<u>Appropriation</u> . . . . .	\$	<u>7,000</u>
TOTAL APPROPRIATION . . . . .	\$	6,888,000

**PART VII**

**SPECIAL APPROPRIATIONS**

Sec. 701. 1993 sp.s. c 24 s 710 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR—EMERGENCY TRAVEL FUND**

General Fund—State Appropriation . . . . .	\$	((3,553,000))
		<u>463,000</u>

The appropriation in this section is subject to the following conditions and limitations: The appropriation shall be used solely for providing for the cost of travel, lodgings, and related expenses for agencies that demonstrate a critical agency-related need as a result of the reductions in travel funding made by this act. Allocations from this appropriation shall be reported quarterly to the legislative fiscal committees.

NEW SECTION. Sec. 702. A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**FOR THE GOVERNOR—MAINFRAME REPROGRAMMING COSTS**

General Fund Appropriation . . . . .	\$	656,000
Forest Development Account Appropriation . . . . .	\$	97,000
Resource Management Cost Account Appropriation . . . . .	\$	236,000
Unemployment Compensation Administration		
Account Appropriation . . . . .	\$	732,000
Department of Retirement Systems Expense		
Account Appropriation . . . . .	\$	407,000
Accident Account Appropriation . . . . .	\$	471,000

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Medical Aid Account Appropriation . . . . .	\$	470,000
Liquor Revolving Fund Appropriation . . . . .	\$	456,000
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<b>3,525,000</b>

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

(1) The appropriations are provided for reprogramming mainframe and other computer applications of the department of personnel, department of natural resources, department of information services, employment security department, department of retirement systems, liquor control board, and department of labor and industries.

(2) Funds shall not be expended until agency work plans are approved by the department of information services and the office of financial management.

(3) The appropriations in this section assume expenditure of \$404,000 from nonappropriated funds in the data processing revolving account. No more than this amount shall be expended by the department of personnel's human resources information services division.

**NEW SECTION.** **Sec. 703.** A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**FOR THE GOVERNOR—REGULATORY REFORM**

General Fund Appropriation . . . . .	\$	200,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for allocation to assist state agencies in implementing Engrossed Second Substitute House Bill No. 2510 (regulatory reform).

**Sec. 704.** 1993 sp.s. c 24 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 GENERAL FUND BOND DEBT**

General Fund Appropriation . . . . .	\$	<del>((736,118,685))</del>
		<u>698,685,618</u>

This appropriation is for deposit into the accounts listed in section 801 of this act.

**Sec. 705.** 1993 sp.s. c 24 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 Appropriation . . . . .	\$	<del>((28,156,178))</del>
		<u>35,218,846</u>

Community College Refunding Bond Retirement		
Fund 1974 Appropriation . . . . .	\$	9,856,110
Community College Capital Construction Bond		



Retirement Fund 1975, 1976, 1977		
Appropriation . . . . .	\$	10,304,798
Higher Education Bond Retirement Fund 1979		
Appropriation . . . . .	\$	6,354,922
Washington State University Bond Redemption		
Fund 1977 Appropriation . . . . .	\$	516,452
Higher Education Refunding Bond Redemption		
Fund 1977 Appropriation . . . . .	\$	6,245,701
State General Obligation Bond Retirement		
1979 Appropriation . . . . .	\$	((65,033,822))
		<u>71,822,089</u>
TOTAL APPROPRIATION . . . . .	\$	((126,467,983))
		<u>140,318,918</u>

**Sec. 706.** 1993 sp.s. c 24 s 705 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—BOND RETIREMENT AND INTEREST, AND ONGOING BOND REGISTRATION AND TRANSFER CHARGES: FOR DEBT TO BE PAID BY STATUTORILY PRESCRIBED REVENUE**

Common School Building Bond Redemption Fund		
1967 Appropriation . . . . .	\$	6,923,625
<del>((State Building Bond Redemption Fund 1967</del>		
<del>    Appropriation . . . . .</del>	<del>\$</del>	<del>654,200))</del>
State Building and Parking Bond Redemption		
Fund 1969 Appropriation . . . . .	\$	2,456,980
TOTAL APPROPRIATION . . . . .	\$	((40,034,805))
		<u>9,380,605</u>

**Sec. 707.** 1993 sp.s. c 24 s 706 (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 Appropriation . . . . .	\$	((1,258,314))
		<u>2,453,714</u>
Higher Education Construction Account		
Appropriation . . . . .	\$	185,130
State Convention and Trade Center Appropriation . . . . .	\$	88,050
<del>((Excess Earnings Account Appropriation . . . . .</del>	<del>\$</del>	<del>1,195,400))</del>
State Building Construction Account		
Appropriation . . . . .	\$	35,298,012
Economic Development Account Appropriation . . . . .	\$	162,000
Puget Sound Capital Construction Account		
Appropriation . . . . .	\$	2,716,792
Motor Vehicle Fund Appropriation . . . . .	\$	2,849,751
Special Category C Account Appropriation . . . . .	\$	974,359

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Energy Efficiency Construction Account		
Appropriation . . . . .	\$	515,362
Common School Reimbursable Construction Account		
Appropriation . . . . .	\$	5,666,853
Higher Education Reimbursable Construction Account		
Appropriation . . . . .	\$	4,312,476
Energy Efficiency Services Account		
Appropriation . . . . .	\$	51,282
<u>State and Local Improvements Revolving Account</u>		
<u>Appropriation—Waste Disposal Facilities . . . . .</u>	<u>\$</u>	<u>1,808</u>
<u>State and Local Improvements Revolving Account</u>		
<u>Appropriation—Waste Disposal Facilities,</u>		
<u>1980 . . . . .</u>	<u>\$</u>	<u>7,370</u>
<u>State and Local Improvements Revolving Account</u>		
<u>Appropriation—Water Supply Facilities . . . . .</u>	<u>\$</u>	<u>6,285</u>
<u>Fruit Commission Facilities Account</u>		
<u>Appropriation . . . . .</u>	<u>\$</u>	<u>500</u>
<u>State Higher Education Bond Retirement Account</u>		
<u>Appropriation, 1988 . . . . .</u>	<u>\$</u>	<u>3,000</u>
TOTAL APPROPRIATION . . . . .	\$	((55,273,784))
		<u>55,292,744</u>

Total Bond Retirement and Interest  
 Appropriations contained in sections 701  
 through 706 of this act . . . . . \$ 1,181,971,582

NEW SECTION. Sec. 708. A new section is added to 1993 sp.s. c 24 (uncodified) to read as follows:

**FOR THE OFFICE OF FINANCIAL MANAGEMENT—BELATED CLAIMS**

The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated and authorized to be expended out of several accounts indicated, for the period from the effective date of this act to June 30, 1995, in order to reimburse the general fund for expenditures from belated claims, to be disbursed on vouchers approved by the office of financial management:

Hospital Commission Account	\$	37
Archives and Records Management Account	\$	1,005
Winter Recreation Program Account	\$	75
Snowmobile Account	\$	226
Institutional Impact Account	\$	15,428
Forest Development Account	\$	2,034
Health Professions Account	\$	3,952
Flood Control Assistance Account	\$	34,460
Aquatic Lands Enhancement	\$	110

Public Safety and Education Account	\$	1,408
Real Estate Commission Account	\$	17,829
Reclamation Revolving Account	\$	104
State Investment Board Expense Account	\$	5,330
State Emergency Water Projects Revolving Account	\$	16
State Capitol Historical Association Museum Account	\$	37
Resource Management Cost Account	\$	7,734
Charitable, Educational, Penal (CEP), and Reformatory Institutions (RI) Account	\$	19,384
Litter Control Account	\$	1,564
State and Local Improvement Revolving Account—		
Waste Disposal Facilities	\$	461
Grade Crossing Protective Account	\$	33,791
State Patrol Highway Account	\$	121,716
State Wildlife Account	\$	33,800
Highway Safety Account	\$	99,707
Motor Vehicle Account	\$	84,214
Puget Sound Ferry Operations Account	\$	429
Special Wildlife Account	\$	868
Public Service Revolving Account	\$	5,408
Vehicle Tire Recycling Account	\$	149
Insurance Commissioner's Regulatory Account	\$	14,712
Water Quality Account	\$	89,017
High Capacity Transportation Account	\$	7,110
Basic Health Plan Trust Account	\$	462
State Toxics Control Account	\$	233,859
Local Toxics Control Account	\$	51,879
Water Quality Permit Account	\$	12
Drug Enforcement and Education Account	\$	400
Solid Waste Management Account	\$	1,127
Hazardous Waste Assistance Account	\$	98
State Treasurer's Service Account	\$	546
Legal Services Revolving Account	\$	24,362
Municipal Revolving Account	\$	9,512
Department of Personnel Service Account	\$	1,931
Auditing Services Revolving Account	\$	3,044
Liquor Revolving Account	\$	25,029
State Convention and Trade Center Operations Account	\$	4,037
Department of Retirement Systems Expense Account	\$	4,537
Accident Account	\$	5,289
Medical Aid Account	\$	5,289

**NEW SECTION. Sec. 709.** A new section is added to 1993 sp.s. c 24 (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 self-defense claims under RCW 9A.16.110:
  - (a) Gregory Johnson, for payment of claim  
number SCJ-93-10 ..... \$ 10,993.52
  - (b) Dale G. Horton, Jr., for payment of claim  
number SCJ-93-11 ..... \$ 4,279.00
  - (c) Joseph Flarity, for payment of claim  
number SCJ-93-12 ..... \$ 6,754.47
  - (d) Loren Mann, for payment of claim  
number SCJ-93-16 ..... \$ 14,462.62

(2) Payment from the state wildlife account of claims for damage to crops by wildlife:

- (a) Joe C. Grentz, claim number  
SCG-91-01A ..... \$ 2,491.00
- (b) Mark Heuett, claim number  
SCG-93-03 ..... \$ 4,471.00
- (c) Stan P. Stout, claim number  
SCG-93-08 ..... \$ 8,456.00
- (d) Ray M. Beller, claim number  
SCG-93-09 ..... \$ 2,000.00
- (e) Rudy E. Etzkorn, claim number  
SCG-93-10 ..... \$ 27,643.00
- (f) Lowell A. Scott, claim number  
SCG-93-11 ..... \$ 24,061.00

Sec. 710. 1993 sp.s. c 24 s 716 (uncodified) is amended to read as follows:

**FOR THE GOVERNOR—COMPENSATION—INSURANCE BENEFITS**

<del>((General Fund—State Appropriation .....</del>	<del>\$ .....</del>	<del>8,960,000</del>
<del>General Fund—Federal Appropriation .....</del>	<del>\$ .....</del>	<del>3,216,000</del>
<del>Special Fund—Salary and Insurance Contribution</del>		
<del>Increase Revolving Fund Appropriation .....</del>	<del>\$ .....</del>	<del>6,871,000</del>
<del>TOTAL APPROPRIATION .....</del>	<del>\$ .....</del>	<del>19,047,000</del>

~~The appropriations in this section, or so much thereof as may be necessary, shall be expended solely for the purposes designated in this section and are subject to the conditions and limitations specified in this section.)~~

(1) ~~The ((appropriations in this section shall be distributed by the)) office of financial management ((to)) shall reduce the allotments of state agencies, excluding institutions of higher education, to ((fund the 1993-95 increased)) reflect decreased costs of health care benefits, administration, and margin in the self-insured medical and dental plans. In making these allotment revisions, the~~

office of financial management shall reduce general fund—state expenditures by \$14,009,000, general fund—federal expenditures by \$5,192,000, and all other fund expenditures by \$11,911,000.

(2)(a) The monthly contributions for insurance benefit premiums shall not exceed \$317.79 per eligible employee for fiscal year 1994, and ~~\$(350.25))~~ 299.57 for fiscal year 1995.

(b) The monthly contributions for the margin in the self-insured medical and dental plans and for the operating costs of the health care authority shall not exceed \$5.91 per eligible employee for fiscal year 1994, and ~~\$(6.21))~~ 5.75 for fiscal year 1995.

(c) Any returns of funds to the health care authority resulting from favorable claims experienced during the 1993-95 biennium shall be held in reserve within the state employees insurance account until appropriated by the legislature.

(d) Funds provided ~~((under this section))~~ for insurance benefits, including funds resulting from dividends or refunds, shall not be used to increase employee insurance benefits over the level of services provided on the effective date of this act. Contributions by any county, municipal, or other political subdivision, except any school district or any bargaining unit within a school district, to which coverage is extended after ((the effective date of this act)) January 1, 1994, shall not receive the benefit of any surplus funds attributable to premiums paid prior to the date on which coverage is extended. Use of such surplus funds by school districts or bargaining units within a school district shall be limited by the conditions in subsection (4) of this section.

(3) 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.

(4) ~~((A maximum of \$587,000 of the special fund salary and insurance contribution increase revolving fund appropriation in this section may be expended for benefit increases for ferry workers consistent with the 1993-95 transportation appropriations act.))~~ School districts or bargaining units within a school district that are currently enrolled in a health care authority plan, or that newly enroll in a plan for the 1994/1995 plan year, shall purchase benefits at a rate of \$322.90 per month per active employee. The rate of \$322.90 includes health care authority administration and margin for self-insured medical and dental plans, and the remittance for the retiree subsidy. The health care authority shall limit the number of enrollees from school districts to the extent necessary to ensure that a deficit in the public employees' and retirees' insurance account does not occur as a result of increased enrollments.

(5) The health care authority, subject to the approval of the public employees benefits board, shall provide the following subsidies for health benefit premiums provided to retirees pursuant to RCW 41.05.080 and 41.05.260 and Senate Bill No. 6605 (retiree health benefits):

(a) From July 1, 1994, through December 31, 1994, the health benefit subsidy for eligible retired or disabled school employees who are eligible for parts A and B of medicare shall be \$34.20 per month.

(b) From July 1, 1994, through December 31, 1994, the health benefit subsidy for eligible retired or disabled school employees who are under age 65 shall be \$85.50 per month.

(c) From January 1, 1995, to June 30, 1995, the health benefit subsidy for eligible retired or disabled school employees who are eligible for parts A and B of medicare shall be \$34.20 per month from the public employees and retirees insurance account in accordance with Senate Bill No. 6605 (retiree health benefits). If the bill is not enacted by June 30, 1994, this subsection (5)(c) shall lapse.

(d) From January 1, 1995, to June 30, 1995, the health benefit subsidy for eligible retired state employees who are eligible for parts A and B of medicare shall be \$34.20 per month from the public employees and retirees insurance account in accordance with Senate Bill No. 6605 (retiree health benefits). If the bill is not enacted by June 30, 1994, this subsection (5)(d) shall lapse.

The public employees' benefits board may adjust the subsidy amounts in this subsection (5) based on actual retiree enrollments.

**Sec. 711.** 1993 sp.s. c 24 s 721 (uncodified) is amended to read as follows:

**FOR THE STATE TREASURER—LOANS**

~~((General Fund Appropriation—For transfer to the~~

~~Convention and Trade Center Operating Account . . . \$ 2,830,000))~~

General Fund Appropriation—For transfer to the

Community College Capital Projects Account . . . . \$ 4,550,000

~~((TOTAL APPROPRIATION . . . . . \$ 7,380,000))~~

**PART VIII**

**OTHER TRANSFERS AND APPROPRIATIONS**

**Sec. 801.** 1993 sp.s. c 24 s 801 (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 SUBJECT TO THE STATUTORY DEBT LIMIT**

Fisheries Bond Redemption Fund 1977

Appropriation . . . . . \$ 1,369,050

Water Pollution Control Facilities Bond Redemption

Fund 1967 Appropriation . . . . . \$ 640,313

State Building (Expo 74) Bond Redemption Fund 1973A

Appropriation . . . . . \$ ((374,968))

158,287

State Building Bond Redemption Fund 1973

Appropriation . . . . . \$ ((3,815,320))

	<u>843,556</u>
State Higher Education Bond Redemption Fund 1973	
Appropriation . . . . .	\$ ((4,395,023))
	<u>621,187</u>
<del>((State Building Authority Bond Redemption Fund</del>	
<del>    Appropriation . . . . .</del>	<del>\$ 9,397,425))</del>
Community College Capital Improvement Bond	
Redemption Fund 1972 Appropriation . . . . .	\$ ((7,528,400))
	<u>923,167</u>
State Higher Education Bond Redemption Fund 1974	
Appropriation . . . . .	\$ ((1,187,200))
	<u>94,125</u>
Waste Disposal Facilities Bond Redemption Fund	
Appropriation . . . . .	\$ ((50,473,075))
	<u>34,146,747</u>
Water Supply Facilities Bond Redemption Fund	
Appropriation . . . . .	\$ 11,109,893
Recreation Improvements Bond Redemption Fund	
Appropriation . . . . .	\$ ((6,033,190))
	<u>253,800</u>
Social and Health Services Facilities 1972 Bond	
Redemption Fund Appropriation . . . . .	\$ ((3,713,865))
	<u>323,900</u>
Outdoor Recreation Bond Redemption Fund 1967	
Appropriation . . . . .	\$ 1,593,098
Indian Cultural Center Construction Bond	
Redemption Fund 1976 Appropriation . . . . .	\$ 127,231
<del>((Fisheries Bond Redemption Fund 1976</del>	
<del>    Appropriation . . . . .</del>	<del>\$ 760,015</del>
<del>Higher Education Bond Redemption Fund 1975</del>	
<del>    Appropriation . . . . .</del>	<del>\$ 2,168,025</del>
<del>State Building Bond Retirement Fund 1975</del>	
<del>    Appropriation . . . . .</del>	<del>\$ 422,360))</del>
Social and Health Services Bond Redemption Fund	
1976 Appropriation . . . . .	\$ 9,464,773
Emergency Water Projects Bond Retirement Fund 1977	
Appropriation . . . . .	\$ 2,639,480
Higher Education Bond Redemption Fund 1977	
Appropriation . . . . .	\$ 13,296,100
Salmon Enhancement Bond Redemption Fund 1977	
Appropriation . . . . .	\$ 3,706,950
Fire Service Training Center Bond Retirement Fund	
1977 Appropriation . . . . .	\$ 745,706

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**State General Obligation Bond Retirement Bond 1979**

Appropriation . . . . .	\$	<del>((601,579,585))</del>
		<u>616,628,255</u>
<b>TOTAL APPROPRIATION . . . . .</b>	<b>\$</b>	<del>((736,118,685))</del>
		<u>698,685,618</u>

The total expenditures from the state treasury under the appropriations in this section and in section 701 of this act shall not exceed the total appropriation in this section.

**Sec. 802.** 1993 sp.s. c 24 s 802 (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**

**State General Obligation Bond Retirement**

1979 Appropriation . . . . .	\$	28,156,178
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The total expenditures from the state treasury under the appropriation in this section and the general fund appropriation in section 703 of this act shall not exceed the total appropriation in this section.

**Sec. 803.** 1993 sp.s. c 24 s 803 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—STATE REVENUES FOR DISTRIBUTION**

**General Fund Appropriation for fire insurance**

premiums tax distribution . . . . .	\$	<del>((4,382,550))</del>
		<u>4,369,500</u>

**General Fund Appropriation for public utility**

district excise tax distribution . . . . .	\$	<del>((29,254,986))</del>
		<u>27,050,294</u>

**General Fund Appropriation for prosecuting**

attorneys' salaries . . . . .	\$	3,300,000
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**General Fund Appropriation for motor vehicle**

excise tax distribution . . . . .	\$	<del>((96,445,099))</del>
		<u>96,797,347</u>

**General Fund Appropriation for local mass**

transit assistance . . . . .	\$	<del>((294,186,744))</del>
		<u>297,185,157</u>

**General Fund Appropriation for camper and**

travel trailer excise tax distribution . . . . .	\$	<del>((3,112,351))</del>
		<u>2,817,271</u>

**General Fund Appropriation for boating**

safety/education and law enforcement distribution . . . . .	\$	<del>((789,528))</del>
		<u>2,623,676</u>



Aquatic Lands Enhancement Account Appropriation for harbor improvement revenue distribution . . . . .	\$	154,000
Liquor Excise Tax Fund Appropriation for liquor excise tax distribution . . . . .	\$	((24,307,934))
		<u>22,875,500</u>
Motor Vehicle Fund Appropriation for motor vehicle fuel tax and overload penalties distribution . . . . .	\$	((552,082,600))
		<u>410,702,520</u>
Liquor Revolving Fund Appropriation for liquor profits distribution . . . . .	\$	((53,570,000))
		<u>44,296,710</u>
Timber Tax Distribution Account Appropriation for distribution to "Timber" counties . . . . .	\$	((121,724,800))
		<u>139,375,055</u>
Municipal Sales and Use Tax Equalization Account Appropriation . . . . .	\$	((51,882,670))
		<u>51,035,317</u>
County Sales and Use Tax Equalization Account Appropriation . . . . .	\$	((17,476,268))
		<u>15,717,879</u>
Death Investigations Account Appropriation for distribution to counties for publicly funded autopsies . . . . .	\$	1,400,000
County Criminal Justice Account Appropriation . . . . .	\$	((16,145,834))
		<u>58,818,768</u>
Municipal Criminal Justice Account Appropriation . . . . .	\$	((6,458,226))
		<u>23,896,400</u>
TOTAL APPROPRIATION . . . . .	\$	((1,276,672,990))
		<u>1,202,415,394</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. 804.** 1993 sp.s. c 24 s 805 (uncodified) is amended to read as follows:  
**FOR THE STATE TREASURER—TRANSFERS**

Flood Control Assistance Account: For transfer to the General Fund—State . . . . .	\$	((300,000))
		<u>0</u>
State Convention and Trade Center Account: For transfer to the State Convention and Trade Center Operations Account . . . . .	\$	((5,699,000))
		<u>9,587,000</u>

Water Quality Account: For transfer to the water

pollution revolving fund. Transfers shall be made at intervals coinciding with deposits of federal capitalization grant money into the revolving fund. The amounts transferred shall not exceed the match required for each federal deposit . . . . . \$ 21,500,000

Trust Land Purchase Account: For transfer to the General Fund . . . . . \$ ((24,000,000))  
22,300,000

General Government Special Revenue Fund—State Treasurer’s Service Account: For transfer to the General Fund on or before (~~July 20~~) June 30, 1995, an amount up to \$(~~7,400,000~~) 8,400,000 in excess of the cash requirements of the state treasurer’s service account . . . . . \$ ((7,400,000))  
8,400,000

Public Works Assistance Account:  
 For transfer to the General Fund . . . . . \$ 35,000,000

Health Services Account:  
 For transfer to the Public Health Services account . . . . . \$ 20,000,000

Economic Development Finance Authority Account:  
For transfer to the General Fund—Federal an amount to include but not exceed all total federal equity in the account . . . . . \$ 458,000

Oil Spill Response Account:  
For transfer to the Oil Spill Administration Account . . . . . \$ 955,000

Air Pollution Control Account:  
For transfer to the General Fund pursuant to Senate Bill No. 5918 (ride sharing incentives) . . . . . \$ 404,000

TOTAL APPROPRIATION . . . . . \$ ((113,899,000))  
118,604,000

**PART IX  
 MISCELLANEOUS**

Sec. 901. RCW 22.09.830 and 1989 c 354 s 52 are each amended to read as follows:

(1) All moneys collected as warehouse license fees, fees for weighing, grading, and inspecting commodities and all other fees collected under the provisions of this chapter, except as provided in subsection (2) of this section, shall be deposited in the grain inspection revolving fund, which is hereby established. The state treasurer is the custodian of the revolving fund. Disbursements from the revolving fund shall be on authorization of the director

of the department of agriculture. The revolving fund is subject to the allotment procedure provided in chapter 43.88 RCW, but no appropriation is required for disbursements from the fund. The fund shall be used for all expenses directly incurred by the commodity inspection division in carrying out the provisions of this chapter and for departmental administrative expenses during the 1993-95 biennium. The department may use so much of such fund not exceeding five percent thereof as the director of agriculture may determine necessary for research and promotional work, including rate studies, relating to wheat and wheat products.

(2) All fees collected for the inspection, grading, and testing of hops shall be deposited into the hop inspection fund, which is hereby established, and shall be retained by the department for the purpose of inspecting, grading, and testing hops. Any moneys in any fund retained by the department on July 1, 1963, and derived from hop inspection and grading shall be deposited to this hop inspection fund. For the purposes of research which would contribute to the development of superior hop varieties and to improve hop production and harvest practices, the department may expend up to twenty percent of the moneys deposited in the hop inspection fund during the fiscal year ending June 30th immediately preceding the year in which such expenditures are to be made. No expenditures shall be made under the provisions of this subsection when the hop inspection fund is, or the director may reasonably anticipate that it will be, reduced below twenty thousand dollars as the result of such expenditure or other necessary expenditures made to carry out the inspection, grading, and testing of hops.

**Sec. 902.** RCW 70.146.080 and 1993 sp.s. c 24 s 924 are each amended to read as follows:

Within thirty days after June 30, 1987, and within thirty days after each succeeding fiscal year thereafter, the state treasurer shall determine the tax receipts deposited into the water quality account for the preceding fiscal year. If the tax receipts deposited into the account in each of the fiscal years 1988 and 1989 are less than forty million dollars, the state treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total receipts in each fiscal year up to forty million dollars.

For the biennium ending June 30, 1991, if the tax receipts deposited into the water quality account and the earnings on investment of balances credited to the account are less than ninety million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to ninety million dollars. The determination and transfer shall be made by July 31, 1991.

For fiscal year~~(s)~~ 1992 ~~((and 1993))~~ and for fiscal years 1995 and 1996 and thereafter, if the tax receipts deposited into the water quality account for each fiscal year are less than forty-five million dollars, the treasurer shall transfer sufficient moneys from general state revenues into the water quality account to bring the total revenue up to forty-five million dollars. Determinations and transfers shall be made by July 31 for the preceding fiscal year.

**Sec. 903.** RCW 90.56.510 and 1993 c 162 s 2 are each amended to read as follows:

(1) The oil spill administration account is created in the state treasury. All receipts from RCW 82.23B.020(2) shall be deposited in the account. Moneys from the account may be spent only after appropriation. The account is subject to allotment procedures under chapter 43.88 RCW. On July 1 of each odd-numbered year, if receipts deposited in the account from the tax imposed by RCW 82.23B.020(2) for the previous fiscal biennium exceed the amount appropriated from the account for the previous fiscal biennium, the state treasurer shall transfer the amount of receipts exceeding the appropriation to the oil spill response account. If, on the first day of any calendar month, the balance of the oil spill response account is greater than twenty-five million dollars and the balance of the oil spill administration account exceeds the unexpended appropriation for the current biennium, then the tax under RCW 82.23B.020(2) shall be suspended on the first day of the next calendar month until the beginning of the following biennium, provided that the tax shall not be suspended during the last six months of the biennium. If the tax imposed under RCW 82.23B.020(2) is suspended during two consecutive biennia, the department shall by November 1st after the end of the second biennium, recommend to the appropriate standing committees an adjustment in the tax rate. For the ~~((period 1991-93))~~ biennium ending June 30, 1995, the state treasurer may transfer funds from the oil spill response account to the oil spill administration account in amounts necessary to support appropriations made from the oil spill administration account in the omnibus appropriations act adopted not later than June 30, 1994.

(2) Expenditures from the oil spill administration account shall be used exclusively for the administrative costs related to the purposes of this chapter, and chapters 90.48, 88.40, and 88.46 RCW. Starting with the 1995-1997 biennium, the legislature shall give activities of state agencies related to prevention of oil spills priority in funding from the oil spill administration account. Costs of administration include the costs of:

- (a) Routine responses not covered under RCW 90.56.500;
- (b) Management and staff development activities;
- (c) Development of rules and policies and the state-wide plan provided for in RCW 90.56.060;
- (d) Facility and vessel plan review and approval, drills, inspections, investigations, enforcement, and litigation;
- (e) Interagency coordination and public outreach and education;
- (f) Collection and administration of the tax provided for in chapter 82.23B RCW; and
- (g) Appropriate travel, goods and services, contracts, and equipment.

**NEW SECTION. Sec. 904.** 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. 905. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

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Passed the Senate March 14, 1994.

Passed the House March 14, 1994.

Approved by the Governor April 6, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 6, 1994.

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

"I am returning herewith, without my approval as to sections 122(10); 122(12); 123; 132(3); 135(9); 145(15); 204(4)(h); 228(19); 303(8)(b); 305, page 87, lines 3 and 4; 305(1); 311, page 92, line 31; 311(5); 603, page 127, lines 17 and 18; and 610(5)(a), Engrossed Substitute Senate Bill No. 6244 entitled:

"AN ACT Relating to fiscal matters;"

My reasons for vetoing these sections are as follows:

**Section 122(10), pages 18 and 19, Long-Term Care Ombudsman Program (Department of Community Development)**

Section 122(10) provides additional resources for a long-term care ombudsman in Kitsap County; requires a minimum of \$10,000 be allocated to each of the 14 long-term care regions; limits the amount of the appropriation that can be spent on administration; and prohibits any reductions in existing contracts. It further requires the Department of Community Development to report to the fiscal committees of the legislature on the allocation of funding for Long-Term Care Ombudsman (LTCO) services, including recommendations for changes in the distribution of funding.

I am concerned that the limitations on administrative expenditures would reduce direct support for the regions currently provided by the LTCO central office. The central office would likely have to adopt a fee-for-service approach to pay for those services to the regions. Simply accounting for these transactions would drain resources from direct services in the regional and central offices. In addition, the cap on administrative expenditures by the central office would not provide sufficient funding for federally mandated programs.



For these reasons, I have vetoed this proviso. I am directing the new Department of Community, Trade, and Economic Development to ensure that residents of long-term care facilities in Kitsap County have improved access to the ombudsman program using the additional funding provided for that purpose. I am also directing the department, in cooperation with the LTCO program and other interested parties, to prepare a comprehensive evaluation of the program for presentation to the fiscal and human services committees of the legislature in the 1995 session. The evaluation will include a specific analysis of the funding allocation method used by the program, including possible ways to increase the proportion of funding available to the regional offices consistent with existing law.

**Section 122(12), page 19, State Environmental Policy Act/Growth Management Act Integration Grants (Department of Community Development)**

The proviso arbitrarily requires a minimum of three grants of not less than \$300,000 each. The language appears to be intended to ensure that grants made by the Department of Community Development for this purpose be of sufficient scale to achieve meaningful results. I am concerned that the specific dollar amounts are overly restrictive and would unnecessarily limit the prudent management of the funding provided by the legislature. Because the new Department of Community, Trade and Economic Development will seek participation in these projects from private and local sources, the state commitment necessary for any one project could be less than the minimum amount provided in the language. The department should not be limited to a requirement to spend at least \$300,000 for each project if it can effectively satisfy project objectives for less.

In keeping with the intent of the language, I have directed the department to support at least three large scale integration projects of at least \$300,000 total cost per project including private and local contributions. I have also directed the department to limit its budget for technical assistance to the amount stated in the proviso and to report to the legislature in December of 1994.

**Section 123, page 20, Fire Protection Policy Board (Department of Community Development)**

Section 123 would reduce the Department of Community Development's appropriation from the Oil Spill Administration Account by \$130,000. The magnitude of this budget reduction, which represents 39 percent of the department's funding for oil spill training, would significantly impair oil spill training programs in this state. Therefore, I am vetoing this proviso and directing the new Department of Community, Trade and Economic Development to place \$61,000 of the Oil Spill Administration Account into reserve to restore the funding to the level recommended in my supplemental budget proposal.

**Section 132(3), page 25, Engrossed Second Substitute Senate Bill No. 5468 (Department of Revenue)**

Section 132(3) allocates funds for a Department of Revenue study of firms that have participated in sales tax deferral, business and occupation tax credit, and development loan fund programs. The department would be required to collect information to measure the effect of these programs and to assess whether participants have followed a wide range of federal and state requirements. This study was also mandated by Engrossed Second Substitute Senate Bill No. 5468.

Engrossed Second Substitute Senate Bill No. 5468 would have required the department to examine the compliance of businesses with environmental, health and safety, and employment standards. If compliance with existing standards in these areas is to be reviewed, the Department of Revenue is not the proper agency to conduct the study. I am also concerned that this provision does not ensure adequate protection against disclosure of proprietary business information.

I am vetoing section 132(3) of the supplemental operating budget to be consistent with my veto of section 2 of Engrossed Second Substitute Senate Bill No. 5468. The Department of Revenue is directed to place the funding in reserve status.

I have also asked directors of state agencies with responsibility for environmental protection, employment, economic development, and workplace health and safety, to

coordinate in identifying eligibility criteria that the state might establish for participation in assistance programs.

**Section 135(9), page 27, State-wide Collocation Efforts (Department of General Administration)**

I have vetoed this proviso in order to enable the Department of General Administration to test the findings of collocation and consolidation studies with \$75,000 of the new appropriation contained in the capital budget for further collocation effort. The \$171,000 of appropriation from the General Administration Facilities and Services Revolving Fund will be placed in reserve and may be allotted to support collocation costs in excess of \$75,000 upon presentation of adequate justification as defined by the Office of Financial Management.

**Section 145(15), page 34, Associate Development Organizations (Department of Trade and Economic Development)**

While I am supportive of the intent of the language in this section to provide continuing support for Associate Development Organizations (ADOs) in distressed and rural areas of the state, I am concerned that the proviso limits the new Department of Community, Trade and Economic Development's flexibility to manage these funds most effectively. In keeping with the spirit of the proviso, I have directed the department to provide full funding to those counties in timber and distressed areas that are most in need and to provide funds to rural and distressed counties that would otherwise be excluded from funding under this language.

**Section 204(4)(h), pages 49 and 50, Community Residential Services Efficiencies (Developmental Disabilities, Department of Social and Health Services)**

This proviso directs the Department of Social and Health Services to develop and implement a plan for increasing the efficiency of the community residential services programs within the Division of Developmental Disabilities. The plan must specifically address strategies and timelines for (1) increasing the number of individuals not currently receiving state-funded residential services during 1995-97 by at least 220 adults, and (2) reducing the General-Fund state costs of providing these residential services in 1995-97 by at least \$2.9 million.

While I am generally supportive of the intent of this language, which is to reduce the average daily cost of residential services, the specific targets are overly prescriptive, particularly as they relate to the next biennium. I am vetoing the proviso, but I am directing the division to complete its currently planned evaluation of all residential services, including those in the community, the residential habilitation centers, and the state operated living alternatives in time for the 1995 legislative session. This plan will also address potential costs savings related to residential reconfiguration and methods of providing services to those currently unserved.

**Section 228(19), page 79, Unemployment Insurance Compensation (Employment Security Department)**

Section 228(19) directs the Employment Security Department to use \$80,000 of the Unemployment Compensation Administration Fund to study computer technology that could be used to improve various compensation procedures, as specified in Engrossed Senate Bill No. 6480. Since that bill was not approved by the legislature, I am vetoing this section of the supplemental budget bill.

**Section 303(8)(b), page 84, Water Rights Permit Processing (Department of Ecology)**

The legislature structured the funding for the Water Rights Permitting program so that 50 percent of the program's Fiscal Year 1995 funding would be eliminated if a water rights permit fee bill was not passed in the 1994 legislative session. It was the legislature's expectation that 50 percent of the funding for the Water Rights Permitting program, including data management, would be supported from water rights permit fees. The failure of the legislature to pass the water rights permit fee bill, Engrossed Second Substitute Senate Bill No. 6291, will mean that a significant portion of the department's water rights permit processing activities will be eliminated. Consequently, the ability of the department to administer a vital resource will be greatly impaired. However, there is much in the water resources program that still needs to be done. Among those activities

are the continued implementation of the data management program and instream flow determinations.

In addition, section 303(8)(b) contains a technical error which would reduce the department's General Fund-State appropriation for water rights permit administration activities by \$654,000, when only \$279,000 in new General Fund-State was provided. For these reasons, I am vetoing this section and directing the department to use the \$279,000 of new funding to augment other water resource activities not directly related to the processing of water rights permits.

**Section 305, page 87, lines 3 and 4, Oil Spill Administration Account Appropriation (State Parks and Recreation Commission)**

The legislative budget reduced the State Parks and Recreation Commission's appropriation from the Oil Spill Administration Account by \$16,000. The magnitude of the legislative budget reduction will mean that the training provided to park rangers and educational efforts designed to prevent oil spills by small vessels will be curtailed. Therefore, I am vetoing this appropriation.

**Section 305(1), page 87, line 23 through line 26, State Parks Fees (State Parks and Recreation Commission)**

Section 305(1), page 87, line 23 through line 26, requires the State Parks and Recreation Commission to implement fees that generate at least \$3 million of additional revenue for the 1993-95 Biennium. A veto of this requirement will allow the commission to eliminate the day use parking fees scheduled to begin on May 1, 1994. While I feel that such charges may be necessary at some point in the future, user concerns have convinced me that we need more time to evaluate the impact of these fees on public access to state parks.

Section 804 of this act requires the transfer of \$22.3 million from the Trust Land Purchase Account, where park fees are deposited, to the state General Fund. My veto of the language in Section 305 will result in an estimated \$2.7 million in loss in revenue to the Trust Land Purchase Account, thus reducing the amount available for transfer to the General Fund. I will ask the legislature to address this issue in the 1995 legislative session.

**Section 311, page 92, line 31, and Section 311(5), page 93, Warm Water Fish Enhancement (Department of Wildlife)**

I am vetoing section 311, page 92, line 31, to remove the appropriation for the Warm Water Fish Account and section 311(5), which provides funding for the implementation for Engrossed Substitute Senate Bill No. 6125, combined recreational hunting and fishing license and warm water fisheries enhancement. While I support the consolidation of the recreational hunting and fishing license documents, I do not support the implementation of an expanded warm water fisheries enhancement program. Engrossed Substitute Senate Bill No. 6125 imposes a \$5 surcharge on all who fish for warm water species. My primary concern is that until a general review of the new Department of Fish and Wildlife's program funding needs occurs, I am opposed to imposing yet another earmarked fund and with it a new fisheries program. I vetoed the sections of Engrossed Substitute Senate Bill No. 6125 dealing with the warm water fisheries enhancement program, and therefore, the program's appropriation and proviso contained in section 311 of the supplemental budget bill are no longer required. However, I am directing the new Department of Fish and Wildlife to expend \$53,000 from the Wildlife Fund-State appropriation to implement the recreational licensing component of Engrossed Substitute Senate Bill No. 6125.

**Section 603, page 127, lines 17 and 18, Oil Spill Administration Account Appropriation (University of Washington)**

The legislative budget reduced the appropriation for the University of Washington's (UW) appropriation from the Oil Spill Administration Account by \$136,000. A reduction of this magnitude would eliminate funding for the UW's oil spill education programs in Fiscal Year 1995, hampering the state's efforts to inform operators of small commercial vessels and shoreside facilities about ways to prevent oil spills. Therefore, I am vetoing this appropriation and directing the UW to place \$89,000 of the Oil Spill Administration

Account into reserve. This restores the funding to the level recommended in my supplemental budget proposal.

**Section 610(5)(a), page 134, Financial Aid (State Need Grant) Money for Post Secondary Education Resource Centers (Higher Education Coordinating Board)**

I am vetoing the proviso contained in section 610(5)(a) permitting the use of \$249,000 of current state need-grant funding to help create post-secondary education resource centers. Under this proviso, the legislature directed that these funds be used as matching funds for an equal amount of federal dollars to create these centers. Last year I worked hard to double the amount of state money available for direct grants to low-income, higher education students. I believe it is inappropriate to reduce the number of financial assistance grants made directly to students who are in need in order to set up an information service for other potential applicants. If the legislature wanted to establish this administrative unit, new money should have been provided. This veto will ensure that the original level of grants to needy students is maintained.

With the exception of sections 122(10); 122(12); 123; 132(3); 135(9); 145(15); 204(4)(h); 228(19); 303(8)(b); 305, page 87, lines 3 and 4; 305(1); 311, page 92, line 31; 311(5); 603, page 127, lines 17 and 18; and 610(5)(a), Engrossed Substitute Senate Bill No. 6244 is approved."

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## CHAPTER 7

[Engrossed Second Substitute House Bill 2319]

### VIOLENCE REDUCTION PROGRAMS

AN ACT Relating to violence prevention; amending RCW 74.14A.020, 43.70.010, 70.190.005, 70.190.010, 43.101.240, 70.190.020, 70.190.030, 70.190.900, 9.41.050, 9.41.060, 9.41.070, 9.41.080, 9.41.090, 9.41.097, 9.41.098, 9.41.100, 9.41.110, 9.41.140, 9.41.190, 9.41.220, 9.41.230, 9.41.240, 9.41.250, 9.41.260, 9.41.270, 9.41.280, 9.41.290, 9.41.300, 9A.56.040, 9A.56.160, 13.40.265, 13.64.060, 42.17.318, 46.20.265, 71.05.450, 71.12.560, 72.23.080, 77.12.720, 77.16.290, 82.04.300, 82.32.030, 9A.46.050, 10.14.080, 10.99.040, 10.99.045, 26.09.050, 26.09.060, 26.10.040, 26.10.115, 26.26.137, 26.50.070, 13.32A.050, 13.32A.060, 13.32A.080, 13.32A.130, 9A.36.045, 9.94A.310, 43.20A.090, 13.04.030, 13.40.020, 13.40.0354, 13.40.0357, 13.40.160, 13.40.185, 13.40.210, 13.40.190, 13.40.220, 13.40.300, 72.09.111, 72.09.070, 26.12.010, 13.04.021, 72.76.010, 13.50.010, 72.09.300, 13.40.070, 13.40.080, 28A.620.020, 28A.600.475, 13.50.050, 43.63A.700, 43.63A.710, 82.60.020, 82.62.010, 66.24.210, 66.24.290, 82.08.150, 82.24.020, 82.64.010, 82.64.020, 82.64.030, 82.64.040, and 69.50.520; amending 1993 sp.s. c 24 s 501 (uncodified); amending 1993 sp.s. c 24 s 202 (uncodified); reenacting and amending RCW 9.41.010, 9.41.040, 26.28.080, 26.26.130, 26.50.060, and 9.94A.320; adding new sections to chapter 43.70 RCW; adding new sections to chapter 70.190 RCW; adding new sections to chapter 43.41 RCW; adding a new section to chapter 43.20A RCW; adding new sections to chapter 9.41 RCW; adding a new section to chapter 9A.56 RCW; adding a new section to chapter 74.13 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.11 RCW; adding a new section to chapter 36.32 RCW; adding a new section to chapter 43.101 RCW; adding a new section to chapter 4.24 RCW; adding a new section to chapter 9.91 RCW; adding new sections to chapter 13.40 RCW; adding a new section to chapter 9.94A RCW; adding new sections to chapter 28A.300 RCW; adding a new section to chapter 28A.320 RCW; adding a new section to chapter 13.16 RCW; adding a new section to chapter 72.02 RCW; adding a new section to chapter 43.19 RCW; adding a new section to chapter 43.33A RCW; adding a new chapter to Title 19 RCW; creating new sections; recodifying RCW 19.70.010, 19.70.020, and 9.41.160; repealing RCW 70.190.900, 9.41.030, 9.41.093, 9.41.095, 9.41.130, 9.41.150, 9.41.180, 9.41.200, 9.41.210, 82.64.060, and 82.64.900; repealing section 201, chapter . . . (section 201 of Engrossed Substitute Senate Bill No. 6244), Laws of 1994 (uncodified); prescribing penalties; providing effective dates; providing contingent effective dates; providing a contingent expiration date; providing for submission of certain sections of this act to a vote of the people; and declaring an emergency.

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

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**PART I. INTENT**

NEW SECTION. **Sec. 101.** The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it can not be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter . . . , Laws of 1994 (this act) to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus

their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society.

**Sec. 102.** RCW 74.14A.020 and 1983 c 192 s 2 are each amended to read as follows:

~~((The department of social and health services))~~ State efforts shall address the needs of children and their families, including emotionally disturbed and mentally ill children, potentially dependent children, and families-in-conflict by:

(1) Serving children and families as a unit in the least restrictive setting available and in close proximity to the family home, consistent with the best interests and special needs of the child;

(2) Ensuring that appropriate social and health services are provided to the family unit both prior to and during the removal of a child from the home and after family reunification;

(3) Ensuring that the safety and best interests of the child are the paramount considerations when making placement and service delivery decisions;

(4) Recognizing the interdependent and changing nature of families and communities, building upon their inherent strengths, maintaining their dignity and respect, and tailoring programs to their specific circumstances;

(5) Developing and implementing comprehensive, preventive, and early intervention social and health services which have demonstrated the ability to delay or reduce the need for out-of-home placements and ameliorate problems before they become chronic or severe;

~~((4))~~ (6) Being sensitive to the family and community culture, norms, values, and expectations, ensuring that all services are provided in a culturally appropriate and relevant manner, and ensuring participation of racial and ethnic minorities at all levels of planning, delivery, and evaluation efforts;

(7)(a) Developing coordinated social and health services which:

~~((a))~~ (i) Identify problems experienced by children and their families early and provide services which are adequate in availability, appropriate to the situation, and effective;

~~((b))~~ (ii) Seek to bring about meaningful change before family situations become irreversibly destructive and before disturbed psychological behavioral patterns and health problems become severe or permanent;

~~((c))~~ (iii) Serve children and families in their own homes thus preventing unnecessary out-of-home placement or institutionalization;

~~((d))~~ (iv) Focus resources on social and health problems as they begin to manifest themselves rather than waiting for chronic and severe patterns of illness, criminality, and dependency to develop which require long-term treatment, maintenance, or custody;

~~((e))~~ (v) Reduce duplication of and gaps in service delivery;

~~((f))~~ (vi) Improve planning, budgeting, and communication among all units of the department (~~(servi~~ng)) and among all agencies that serve children and families; and

~~((g) Develop)~~ (vii) Utilize outcome standards for measuring the effectiveness of social and health services for children and families.

(b) In developing services under this subsection, local communities must be involved in planning and developing community networks that are tailored to their unique needs.

## PART II. PUBLIC HEALTH

NEW SECTION. **Sec. 201.** The legislature recognizes that the state patrol, the office of the administrator for the courts, the sheriffs' and police chiefs' association, the department of social and health services, the department of community development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by section 202 of this act to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence.

NEW SECTION. **Sec. 202.** A new section is added to chapter 43.70 RCW to read as follows:

(1) The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section "acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

(2) The department is designated as the state-wide agency for the coordination of all information relating to violence and other intentional injuries, at-risk behaviors, and risk and protective factors.

(3) The department shall provide necessary data to the local health departments for use in planning by or evaluation of any community network authorized under section 303 of this act.

(4) The department shall publish annual reports on intentional injuries, unintentional injuries, rates of at-risk youth, and associated risk and protective factors. The reports shall be submitted to the governor, the legislature, and the Washington state institute for public policy.

(5) The department shall by rule establish requirements for local health departments to perform assessment related to at-risk behaviors and risk and protective factors and to assist community networks in policy development and in planning and other duties under chapter . . . , Laws of 1994 (this act).

(6) The department may, consistent with its general authority and directives under sections 201 through 205 of this act, contract with a college or university that has experience in data collection relating to the health and overall welfare of children to provide assistance to:

(a) State and local health departments in developing new sources of data to track acts of violence, at-risk behaviors, and risk and protective factors; and

(b) Local health departments to compile and effectively communicate data in their communities.

NEW SECTION. Sec. 203. A new section is added to chapter 43.70 RCW to read as follows:

The public health services improvement plan developed under RCW 43.70.520 shall include:

(1) Minimum standards for state and local public health assessment, performance measurement, policy development, and assurance regarding social development to reduce at-risk behaviors and risk and protective factors. The department in the development of data collection and reporting requirements for the superintendent of public instruction, schools, and school districts shall consult with the joint select committee on education restructuring and local school districts.

(2)(a) Measurable risk factors that are empirically linked to violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(b) An evaluation of other factors to determine whether they are empirically related risk factors, such as: Out-of-home placements, poverty, single-parent households, inadequate nutrition, hunger, unemployment, lack of job skills, gang affiliation, lack of recreational or cultural opportunities, school absenteeism, court-ordered parenting plans, physical, emotional, or behavioral problems requiring special needs assistance in K-12 schools, learning disabilities, and any other possible factors.



(3) Data collection and analysis standards on at-risk behaviors and risk and protective factors for use by the local public health departments and the state council and the local community networks to ensure consistent and interchangeable data.

(4) Recommendations regarding any state or federal statutory barriers affecting data collection or reporting.

The department shall provide an annual report to the Washington state institute for public policy on the implementation of this section.

**NEW SECTION.** **Sec. 204.** A new section is added to chapter 43.70 RCW to read as follows:

The department, in consultation with the family policy council created in chapter 70.190 RCW, shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by section 203 of this act.

The department, in consultation with the family policy council, shall review the definitions of at-risk children and youth, protective factors, and risk factors contained in RCW 70.190.010 and make any suggested recommendations for change to the legislature by January 1, 1995.

**NEW SECTION.** **Sec. 205.** A new section is added to chapter 43.70 RCW to read as follows:

The legislature encourages the use of a state-wide voluntary, socially responsible policy to reduce the emphasis, amount, and type of violence in all public media. The department shall develop a suggested reporting format for use by the print, television, and radio media in reporting their voluntary violence reduction efforts. Each area of the public media may carry out the policy in whatever manner that area deems appropriate.

**Sec. 206.** RCW 43.70.010 and 1989 1st ex.s. c 9 s 102 are each amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

- ~~((2))~~ (3) "Council" means the health care access and cost control council;
- ~~((3))~~ (4) "Department" means the department of health; ~~(and~~
- ~~(4))~~ (5) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and
- (6) "Secretary" means the secretary of health.

NEW SECTION. Sec. 207. A new section is added to chapter 70.190 RCW to read as follows:

(1) The Washington state institute for public policy shall conduct or contract for monitoring and tracking of the implementation of chapter . . . , Laws of 1994 (this act) to determine whether these efforts result in a measurable reduction of violence. The institute shall also conduct or contract for an evaluation of the effectiveness of the community public health and safety networks in reducing the rate of at-risk youth through reducing risk factors and increasing protective factors. The evaluation plan shall result in statistically valid evaluation at both state-wide and community levels. The evaluation plan shall be submitted to the governor and appropriate legislative committees by July 1, 1995.

(2) Starting five years after the initial grant to a community network, if the community network fails to meet the outcome standards and goals in any two consecutive years, the institute shall make recommendations to the legislature concerning whether the funds received by that community network should revert back to the originating agency. In making this determination, the institute shall consider the adequacy of the level of intervention relative to the risk factors in the community and any external events having a significant impact on risk factors or outcomes.

(3) The outcomes required under this chapter and social development standards and measures established by the department of health under section 204 of this act shall be used in conducting the outcome evaluation of the community networks.

### PART III. COMMUNITY NETWORKS

Sec. 301. RCW 70.190.005 and 1992 c 198 s 1 are each amended to read as follows:

The legislature finds that a primary goal of public involvement in the lives of children has been to strengthen the family unit.

However, the legislature recognizes that traditional two-parent families with one parent routinely at home are now in the minority. In addition, extended family and natural community supports have eroded drastically. The legislature recognizes that public policy assumptions must be altered to account for this new social reality. Public effort must be redirected to expand, support, strengthen, and help ~~((refashion))~~ reconstruct family and community ~~((associations))~~ networks to ~~((care for))~~ assist in meeting the needs of children.

The legislature finds that a broad variety of services for children and families has been independently designed over the years and that the coordination

and cost-effectiveness of these services will be enhanced through the adoption of ~~((a common))~~ an approach ~~((to their delivery))~~ that allows communities to prioritize and coordinate services to meet their local needs. The legislature further finds that the most successful programs for reaching and working with at-risk families and children treat individuals' problems in the context of the family, offer a broad spectrum of services, are flexible in the use of program resources, and use staff who are trained in crossing traditional program categories in order to broker services necessary to fully meet a family's needs.

The legislature further finds that eligibility criteria, expenditure restrictions, and reporting requirements of state and federal categorical programs often create barriers toward the effective use of resources for addressing the multiple problems of at-risk families and children.

The purposes of this chapter are (1) to modify public policy and programs to empower communities to support and respond to the needs of individual families and children and (2) to improve the responsiveness of services for children and families at risk by facilitating greater coordination and flexibility in the use of funds by state and local service agencies.

*\*Sec. 302. RCW 70.190.010 and 1992 c 198 s 3 are each amended to read as follows:*

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

*(1) "Assessment" has the same meaning as provided in RCW 43.70.010.*

*(2) "At-risk" children and youth are those who risk the significant loss of social, educational, or economic opportunities.*

*(3) "At-risk behaviors" means violent delinquent acts, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. At-risk children and youth also include those who are victims of violence, abuse, neglect, and those who have been removed from the custody of their parents.*

*(4) "Comprehensive plan" means a two-year plan that examines available resources and unmet needs for a county or multicounty area, barriers that limit the effective use of resources, and a plan to address these issues that is broadly supported.*

*~~((2))~~ (5) "Participating state agencies" means the office of the superintendent of public instruction, the department of social and health services, the department of health, the employment security department, the department of community, trade, and economic development, and such other departments as may be specifically designated by the governor.*

*~~((3))~~ (6) "Family policy council" or "council" means: The superintendent of public instruction, the secretary of social and health services, the secretary of health, the commissioner of the employment security department, and the director of the department of community, trade, and economic development or their designees; one legislator from each caucus of the senate and house of representatives; and one representative of the*

governor; one representative each appointed by the governor for cities or towns, counties, federally recognized Indian tribes, school districts, the children's commission, law enforcement agencies, superior courts, public parks and recreation programs, and private agency service providers; citizen representatives of community organizations not associated with delivery of services affected by chapter . . ., Laws of 1994 (this act); and two chief executive officers of major Washington corporations appointed by the governor.

~~((4))~~ (7) "Outcome" or "outcome based" means defined and measurable outcomes ((and indicators that make it possible for communities)) used to evaluate progress in ((meeting their goals and whether systems are fulfilling their responsibilities)) reducing the rate of at-risk children and youth through reducing risk factors and increasing protective factors.

~~((5))~~ (8) "Matching funds" means an amount no less than twenty-five percent of the amount budgeted for a ((consortium's project. Up to half of the consortium's)) community network's plan. The network's matching funds may be in-kind goods ((and)), services((. Funding sources allowable for match include)), appropriate federal or local levy funds, private charitable funding, and other charitable giving. Basic education funds shall not be used as a match.

~~((6) "Consortium" means a diverse group of individuals that includes at least representatives of local service providers, service recipients, local government administering or funding children or family service programs, participating state agencies, school districts, existing children's commissions, ethnic and racial minority populations, and other interested persons organized for the purpose of designing and providing collaborative and coordinated services under this chapter. Consortia shall represent a county, multicounty, or municipal service area. In addition, consortia may represent Indian tribes applying either individually or collectively.)~~

(9) "Community public health and safety networks" or "community networks" means authorities authorized under section 303 of this act.

(10) "Policy development" has the same meaning as provided in RCW 43.70.010.

(11) "Protective factors" means those factors determined by the department of health to be empirically associated with behaviors that contribute to socially acceptable and healthy nonviolent behaviors. Protective factors include promulgation, identification, and acceptance of community norms regarding appropriate behaviors in the area of delinquency, early sexual activity, and alcohol and substance abuse, educational opportunities, employment opportunities, and absence of crime.

(12) "Risk factors" means those factors determined by the department of health to be empirically associated with at-risk behaviors that contribute to violence. Risk factors include availability of drugs or alcohol, economic, educational, and social deprivation, rejection of identification with the

community, academic failure, a family history of high substance abuse, crime, a lack of acceptance of societal norms, and substance, child, and sexual abuse.  
\*Sec. 302 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 303. A new section is added to chapter 70.190 RCW to read as follows:

(1) The legislature intends to create community public health and safety networks to reconnect parents and other citizens with children, youth, families, and community institutions which support health and safety. The networks should empower parents and other citizens by being a means of expressing their attitudes, spirit, and perspectives regarding safe and healthy family and community life. The legislature intends that parent and other citizen perspectives exercise a controlling influence over policy and program operations of professional organizations concerned with children and family issues within networks in a manner consistent with the Constitution and state law. It is not the intent of the legislature that health, social service, or educational professionals dominate community public health and safety network processes or programs, but rather that these professionals use their skills to lend support to parents and other citizens in expressing their values as parents and other citizens identify community needs and establish community priorities. To this end, the legislature intends full participation of parents and other citizens in community public health and safety networks. The intent is that local community values are reflected in the operations of the network.

(2) A group of persons described in subsection (3) of this section may apply by December 1, 1994, to be a community public health and safety network.

(3) Each community public health and safety network shall be composed of twenty-three people, thirteen of whom shall be citizens with no direct fiduciary interest in health, education, social service, or justice system organizations operating within the network area. In selecting these members, first priority shall be given to members of community mobilization advisory boards, city or county children's services commissions, human services advisory boards, or other such organizations which may exist within the network. The thirteen persons shall be selected as follows: Three by the chambers of commerce located in the network, three by school board members of the school districts within the network boundary, three by the county legislative authorities of the counties within the network boundary, three by the city legislative authorities of the cities within the network boundary, and one high school student, selected by student organizations within the network boundary. The remaining ten members shall include local representation from the following groups and entities: Cities, counties, federally recognized Indian tribes, parks and recreation programs, law enforcement agencies, superior court judges, state children's service workers from within the network area, employment assistance workers from within the network area, private social, educational, or health service providers from within the network area, and broad-based nonsecular organizations.

(4) A list of the network members shall be submitted to the council by December 1, 1994, by the network chair who shall be selected by network members at their first meeting. The list shall become final unless the council chooses other members within twenty days after the list is submitted. The council shall accept the list unless he or she believes the proposed list does not adequately represent all parties identified in subsection (3) of this section or a member has a conflict of interest between his or her membership and his or her livelihood. Members of the community network shall serve terms of three years.

The terms of the initial members of each network shall be as follows: (a) One-third shall serve for one year; (b) one-third shall serve for two years; and (c) one-third shall serve for three years. Initial members may agree which shall serve fewer than three years or the decision may be made by lot. The same process shall be used in the selection of the chair and members for subsequent terms. Any vacancy occurring during the term may be filled by the chair for the balance of the unexpired term.

(5) The network shall select a public entity as the lead fiscal agency for the network. The lead agency may contract with a public or private entity to perform other administrative duties required by the state. In making the selection, the network shall consider: (a) Experience in administering prevention and intervention programs; (b) the relative geographical size of the network and its members; (c) budgeting and fiscal capacity; and (d) how diverse a population each entity represents.

(6) Network meetings are subject to the open public meetings act under chapter 42.30 RCW.

**NEW SECTION.** Sec. 304. A new section is added to chapter 70.190 RCW to read as follows:

The community public health and safety networks shall:

(1) Review state and local public health data and analysis relating to risk factors, protective factors, and at-risk children and youth;

(2) Prioritize the risk factors and protective factors to reduce the likelihood of their children and youth being at risk. The priorities shall be based upon public health data and assessment and policy development standards provided by the department of health under section 204 of this act;

(3) Develop long-term comprehensive plans to reduce the rate of at-risk children and youth; set definitive, measurable goals, based upon the department of health standards; and project their desired outcomes;

(4) Distribute funds to local programs that reflect the locally established priorities and as provided in section 324 of this act;

(5) Comply with outcome-based standards;

(6) Cooperate with the department of health and local boards of health to provide data and determine outcomes; and

(7) Coordinate its efforts with anti-drug use efforts and organizations and maintain a high priority for combatting drug use by at-risk youth.

NEW SECTION. **Sec. 305.** A new section is added to chapter 70.190 RCW to read as follows:

(1) The community network's plan may include a program to provide postsecondary scholarships to at-risk students who: (a) Are community role models under criteria established by the community network; (b) successfully complete high school; and (c) maintain at least a 2.5 grade point average throughout high school. Funding for the scholarships may include public and private sources.

(2) The community network's plan may also include funding of community-based home visitor programs which are designed to reduce the incidence of child abuse and neglect with the network. Parents shall sign a voluntary authorization for services, which may be withdrawn at any time. The program may provide parents with education and support either in parents' homes or in other locations comfortable for parents, beginning with the birth of their first baby. The program may make the following services available to the families:

(a) Visits for all expectant or new parents, either at the parent's home or another location with which the parent is comfortable;

(b) Screening before or soon after the birth of a child to assess the family's strengths and goals and define areas of concern in consultation with the family;

(c) Parenting education and skills development;

(d) Parenting and family support information and referral;

(e) Parent support groups; and

(f) Service coordination for individual families, and assistance with accessing services, provided in a manner that ensures that individual families have only one individual or agency to which they look for service coordination. Where appropriate for a family, service coordination may be conducted through interdisciplinary or interagency teams.

These programs are intended to be voluntary for the parents involved.

(3) The community network may include funding of:

(a) At-risk youth job placement and training programs. The programs shall:

(i) Identify and recruit at-risk youth for local job opportunities;

(ii) Provide skills and needs assessments for each youth recruited;

(iii) Provide career and occupational counseling to each youth recruited;

(iv) Identify businesses willing to provide employment and training opportunities for at-risk youth;

(v) Match each youth recruited with a business that meets his or her skills and training needs;

(vi) Provide employment and training opportunities that prepare the individual for demand occupations; and

(vii) Include, to the extent possible, collaboration of business, labor, education and training, community organizations, and local government;

(b) Employment assistance, including job development, school-to-work placement, employment readiness training, basic skills, apprenticeships, job mentoring, and private sector and community service employment;

(c) Education assistance, including tutoring, mentoring, interactions with role models, entrepreneurial education and projects, violence prevention training, safe school strategies, and employment reentry assistance services;

(d) Peer-to-peer, group, and individual counseling, including crisis intervention, for at-risk youth and their parents;

(e) Youth coalitions that provide opportunities to develop leadership skills and gain appropriate respect, recognition, and rewards for their positive contribution to their community;

(f) Technical assistance to applicants to increase their organizational capacity and to improve the likelihood of a successful application; and

(g) Technical assistance and training resources to successful applicants.

**NEW SECTION.** Sec. 306. A new section is added to chapter 70.190 RCW to read as follows:

(1) A community network that has its membership finalized under section 303(4) of this act shall, upon application to the council, be eligible to receive planning grants and technical assistance from the council. Planning grants may be funded through available federal funds for family preservation services. After receiving the planning grant the region will be given up to one year to submit the long-term comprehensive plan. Upon application the community networks are eligible to receive funds appropriated under section 324 of this act.

(2) The council shall enter into biennial contracts with community networks as part of the grant process. The contracts shall be consistent with available resources, and shall be distributed in accordance with the distribution formula developed pursuant to section 319 of this act.

(3) No later than February 1 of each odd-numbered year following the initial contract between the council and a network, the council shall request from the network its plan for the upcoming biennial contract period.

(4) The council shall notify the community networks of their allocation of available resources at least sixty days prior to the start of a new biennial contract period.

**NEW SECTION.** Sec. 307. A new section is added to chapter 70.190 RCW to read as follows:

The family policy council shall:

(1) Establish network boundaries no later than July 1, 1994. There is a presumption that no county may be divided between two or more community networks and no network shall have fewer than forty thousand population. When approving multicounty networks, considering dividing a county between networks, or creating a network with a population of less than forty thousand, the council must consider: (a) Common economic, geographic, and social interests; (b) historical and existing shared governance; and (c) the size and location of population centers. Individuals and groups within any area shall be given ample opportunity to propose network boundaries in a manner designed to assure full consideration of their expressed wishes;



(2) Develop a technical assistance and training program to assist communities in creating and developing community networks and comprehensive plans;

(3) Approve the structure, purpose, goals, plan, and performance measurements of each community network;

(4) Identify all prevention and early intervention programs and funds, including all programs funded under RCW 69.50.520, in addition to the programs set forth in section 308 of this act, which could be transferred, in all or part, to the community networks, and report their findings and recommendations to the governor and the legislature regarding any appropriate program transfers by January 1 of each year;

(5) Reward community networks that show exceptional success as provided in section 319 of this act;

(6) Seek every opportunity to maximize federal and other funding that is consistent with the plans approved by the council for the purpose and goals of this chapter;

(7) Review the state-funded out-of-home placement rate before the end of each contract to determine whether the region has sufficiently reduced the rate. If the council determines that there has not been a sufficient reduction in the rate, it may reduce the immediately succeeding grant to the network;

(8)(a) The council shall monitor the implementation of programs contracted by participating state agencies by reviewing periodic reports on the extent to which services were delivered to intended populations, the quality of services, and the extent to which service outcomes were achieved at the conclusion of service interventions. This monitoring shall include provision for periodic feedback to community networks;

(b) The legislature intends that this monitoring be used by the Washington state institute for public policy, together with public health data on at-risk behaviors and risk and protective factors, to produce an external evaluation of the effectiveness of the networks and their programs. For this reason, and to conserve public funds, the council shall not conduct or contract for the conduct of control group studies, quasi-experimental design studies, or other analysis efforts to attempt to determine the impact of network programs on at-risk behaviors or risk and protective factors; and

(9) Review the implementation of chapter . . . , Laws of 1994 (this act) and report its recommendations to the legislature annually. The report shall use measurable performance standards to evaluate the implementation.

**NEW SECTION. Sec. 308.** A new section is added to chapter 70.190 RCW to read as follows:

(1) The council, and each network, shall biennially review all state and federal funded programs serving individuals, families, or communities to determine whether a network may be better able to integrate and coordinate these services within the community.

(2) The council, and each network, shall specifically review and report, to the governor and the legislature, on the feasibility and desirability of

decategorizing and granting, all or part of, the following program funds to the networks:

- (a) Consolidated juvenile services;
  - (b) Family preservation and support services;
  - (c) Readiness to learn;
  - (d) Community mobilization;
  - (e) Violence prevention;
  - (f) Community-police partnership;
  - (g) Child care;
  - (h) Early intervention and educational services, including but not limited to, birth to three, birth to six, early childhood education and assistance, and headstart;
  - (i) Crisis residential care;
  - (j) Victims' assistance;
  - (k) Foster care;
  - (l) Adoption support;
  - (m) Continuum of care; and
  - (n) Drug and alcohol abuse prevention and early intervention in schools.
- (3) In determining the desirability of decategorizing these programs the report shall analyze whether:
- (a) The program is an integral part of the comprehensive plan without decategorization;
  - (b) The program is already adequately integrated and coordinated with other programs that are, or will be, funded by the network;
  - (c) The network could develop the capacity to provide the program's services;
  - (d) The program goals might receive greater community support and reinforcement through the network;
  - (e) The program presently ensures that adequate follow-up efforts are utilized, and whether the network could improve on those efforts through decategorization of the funds;
  - (f) The decategorization would benefit the community; and
  - (g) The decategorization would assist the network in achieving its goals.
- (4) If the council or a network determines that a program should not be decategorized, the council or network shall make recommendations regarding programmatic changes that are necessary to improve the coordination and integration of services and programs, regardless of the funding source for those programs.

**NEW SECTION. Sec. 309.** A new section is added to chapter 70.190 RCW to read as follows:

(1) The participating state agencies shall execute an interagency agreement to ensure the coordination of their local program efforts regarding children. This agreement shall recognize and give specific planning, coordination, and program administration responsibilities to community networks, after the approval under

section 310 of this act of their comprehensive plans. The community networks shall encourage the development of integrated, regionally based children, youth, and family activities and services with adequate local flexibility to accomplish the purposes stated in section 101 of this act and RCW 74.14A.020.

(2) The community networks shall exercise the planning, coordinating, and program administration functions specified by the state interagency agreement in addition to other activities required by law, and shall participate in the planning process required by chapter 71.36 RCW.

(3) Any state or federal funds identified for contracts with community networks shall be transferred with no reductions.

**NEW SECTION.** Sec. 310. A new section is added to chapter 70.190 RCW to read as follows:

The council shall only disburse funds to a community network after a comprehensive plan has been prepared by the network and approved by the council or as provided in section 324 of this act. In approving the plan the council shall consider whether the network:

(1) Promoted input from the widest practical range of agencies and affected parties;

(2) Reviewed the indicators of violence data compiled by the local public health departments and incorporated a response to those indicators in the plan;

(3) Obtained a declaration by the largest health department within the network's boundaries, ensuring that the plan met minimum standards for assessment and policy development relating to social development according to section 204 of this act;

(4) Included a specific mechanism of data collection and transmission based on the rules established under section 204 of this act;

(5) Considered all relevant causes of violence in its community and did not isolate only one or a few of the elements to the exclusion of others and demonstrated evidence of building community capacity through effective neighborhood and community development; and

(6) Committed to make measurable reductions in the rate of at-risk children and youth by reducing the rate of state-funded out-of-home placements and make reductions in at least three of the following rates of youth: Violent criminal acts, substance abuse, pregnancy and male parentage, suicide attempts, or dropping out of school.

Sec. 311. RCW 43.101.240 and 1989 c 271 s 423 are each amended to read as follows:

(1) The criminal justice training commission in cooperation with the United States department of justice department of community relations (region X) shall conduct an assessment of successful community-police partnerships throughout the United States. The commission shall develop training for local law enforcement agencies targeted toward those communities where there has been a substantial increase in drug crimes. The purpose of the training is to facilitate

cooperative community-police efforts and enhanced community protection to reduce drug abuse and related crimes. The training shall include but not be limited to conflict management, ethnic sensitivity, cultural awareness, and effective community policing. ~~((The commission shall report its findings and progress to the legislature by January 1990.))~~

(2) Local law enforcement agencies are encouraged to form community-police partnerships in ~~((areas of substantial drug crimes))~~ all neighborhoods and particularly areas with high rates of criminal activity. These partnerships are encouraged to organize citizen-police task forces which meet on a regular basis to promote greater citizen involvement in combatting drug abuse and to reduce tension between police and citizens. Partnerships that are formed are encouraged to report to the criminal justice training commission of their formation and progress.

~~((3) The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the drug enforcement and education account to the criminal justice training commission for the purposes of subsection (1) of this section.))~~

NEW SECTION. **Sec. 312.** A new section is added to chapter 70.190 RCW to read as follows:

If there exist any federal restrictions against the transfer of funds, for the programs enumerated in section 308 of this act, to the community networks, the council shall assist the governor in immediately applying to the federal government for waivers of the federal restrictions. The council shall also assist the governor in coordinating efforts to make any changes in federal law necessary to meet the purpose and intent of chapter . . . , Laws of 1994 (this act).

*\*NEW SECTION. Sec. 313. A new section is added to chapter 70.190 RCW to read as follows:*

*For grant funds awarded under this chapter, no state agency may require any other program requirements, except those necessary to meet federal funding standards or requirements. None of the grant funds awarded to the community networks shall be considered as new entitlements.*

*\*Sec. 313 was vetoed, see message at end of chapter.*

NEW SECTION. **Sec. 314.** A new section is added to chapter 70.190 RCW to read as follows:

The implementation of community networks shall be included in all federal and state plans affecting the state's children, youth, and families. The plans shall be consistent with the intent and requirements of this chapter.

**Sec. 315.** RCW 70.190.020 and 1992 c 198 s 4 are each amended to read as follows:

To the extent that any power or duty of the council ~~((created according to chapter 198, Laws of 1992))~~ may duplicate efforts of existing councils, commissions, advisory committees, or other entities, the governor is authorized to take necessary actions to eliminate such duplication. This shall include

authority to consolidate similar councils or activities in a manner consistent with the goals of this chapter (~~(198, Laws of 1992)~~).

**Sec. 316.** RCW 70.190.030 and 1992 c 198 s 5 are each amended to read as follows:

~~((1))~~ The ~~((family policy))~~ council shall annually solicit from ~~((consortium))~~ community networks proposals to facilitate greater flexibility, coordination, and responsiveness of services at the community level. The council shall consider such proposals only if:

~~((a))~~ (1) A comprehensive plan has been prepared by the ~~((consortium; and~~ ~~(b))~~ community networks;

(2) The ~~((consortium))~~ community network has identified and agreed to contribute matching funds as specified in RCW 70.190.010; ~~(and~~

~~(e))~~ (3) An interagency agreement has been prepared by the ~~((family policy))~~ council and the participating local service and support agencies that governs the use of funds, specifies the relationship of the project to the principles listed in RCW 74.14A.025, and identifies specific outcomes and indicators; and

~~((d) Funds are to be used to provide support or services needed to implement a family's or child's case plan that are not otherwise adequately available through existing categorical services or community programs; {and}~~

~~(e) The consortium has provided written agreements that identify a lead agency that will assume fiscal and programmatic responsibility for the project, and identify participants in a consortium council with broad participation and that shall have responsibility for ensuring effective coordination of resources; and~~

~~(f))~~ (4) The ~~((consortium))~~ community network has designed into its comprehensive plan standards for accountability. Accountability standards include, but are not limited to, the public hearing process eliciting public comment about the appropriateness of the proposed comprehensive plan. The ~~((consortium))~~ community network must submit reports to the ~~((family policy))~~ council outlining the public response regarding the appropriateness and effectiveness of the comprehensive plan.

~~((2) The family policy council may submit a prioritized list of projects recommended for funding in the governor's budget document.~~

~~(3) The participating state agencies shall identify funds to implement the proposed projects from budget requests or existing appropriations for services to children and their families.)~~

**Sec. 317.** RCW 70.190.900 and 1992 c 198 s 11 are each amended to read as follows:

By June 30, 1995, the ~~((family policy))~~ council shall report to the appropriate committees of the legislature on the expenditures made, outcomes attained, and other pertinent aspects of its experience in the implementation of RCW 70.190.030.

NEW SECTION. **Sec. 318.** A new section is added to chapter 43.41 RCW to read as follows:

The office of financial management shall review the administration of funds for programs identified under section 308 of this act and propose legislation to complete interdepartmental transfers of funds or programs as necessary. The office of financial management shall review statutes that authorize the programs identified under section 308 of this act and suggest legislation to eliminate statutory requirements that may interfere with the administration of that policy.

**NEW SECTION. Sec. 319.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The office of financial management, in consultation with affected parties, shall establish a fund distribution formula for determining allocations to the community networks authorized under section 310 of this act. The formula shall reflect the local needs assessment for at-risk children and consider:

- (a) The number of arrests and convictions for juvenile violent offenses;
- (b) The number of arrests and convictions for crimes relating to juvenile drug offenses and alcohol related offenses;
- (c) The number of teen pregnancies and parents;
- (d) The number of child and teenage suicides and attempted suicides; and
- (e) The high school graduation rate.

(2) In developing the formula, the office of financial management shall reserve five percent of the funds for the purpose of rewarding community networks.

(3) The reserve fund shall be used by the council to reward community networks that show exceptional reductions in: State-funded out-of-home placements, violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts, or school dropout rates.

(4) The office of financial management shall submit the distribution formula to the family policy council and to the appropriate committees of the legislature by December 20, 1994.

**NEW SECTION. Sec. 320.** A new section is added to chapter 70.190 RCW to read as follows:

If a community network is unable or unwilling to assume powers and duties authorized under this chapter by June 30, 1998, or the Washington state institute for public policy makes a recommendation under section 207 of this act, the governor may transfer all funds and programs available to a community network to a single state agency whose statutory purpose, mission, goals, and operating philosophy most closely supports the principles and purposes of section 101 of this act and RCW 74.14A.020, for the purpose of integrating the programs and services.

**NEW SECTION. Sec. 321.** The secretary of social and health services and the insurance commissioner shall conduct a study regarding liability issues and insurance rates for private nonprofit group homes that contract with the department for client placement. The secretary and commissioner shall report their findings and recommendations to the legislature by November 15, 1994.

**NEW SECTION. Sec. 322.** A new section is added to chapter 43.20A RCW to read as follows:

The secretary of social and health services shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials.

**\*NEW SECTION. Sec. 323.** *The governor shall appoint the initial members of the family policy council by May 1, 1994.*

\*Sec. 323 was vetoed, see message at end of chapter.

**NEW SECTION. Sec. 324.** Any funds appropriated to the violence reduction and drug enforcement account in the 1993-95 supplemental budget for purposes of community networks shall only be available upon application of a network to the council. The application shall identify the programs and a plan for expenditure of the funds. The application and plan shall demonstrate the effectiveness of the program in terms of reaching its goals and provide clear and substantial evidence that additional funds will substantially improve the ability of the program to increase its effectiveness. Upon approval of this plan, each network shall be eligible to receive a minimum dollar amount as determined by the office of financial management.

This section shall expire June 30, 1995.

**NEW SECTION. Sec. 325.** RCW 70.190.900 and 1994 c . . . s 317 (section 317 of this act) & 1992 c 198 s 11 are each repealed.

**NEW SECTION. Sec. 326.** Section 325 of this act shall take effect July 1, 1995.

#### PART IV. FIREARMS AND OTHER WEAPONS

**Sec. 401.** RCW 9.41.010 and 1992 c 205 s 117 and 1992 c 145 s 5 are each reenacted and amended to read as follows:

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

(1) (~~"Short firearm" or~~) "Firearm" means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

(2) "Pistol" (~~as used in this chapter~~) means any firearm with a barrel less than twelve inches in length, or is designed to be held and fired by the use of a single hand.

~~((2))~~ (3) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(4) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of

modification if such modified weapon has an overall length of less than twenty-six inches.

(5) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(6) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

(7) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

(8) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(9) "Loaded" means:

(a) There is a cartridge in the chamber of the firearm;

(b) Bullets are in a clip that is locked in place in the firearm;

(c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver; or

(d) There is a cartridge in the tube, magazine, or other compartment of the firearm.

(10) "Dealer" means a person engaged in the business of selling firearms or ammunition at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(11) "Crime of violence" (~~as used in this chapter~~) means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, rape in the second degree,



kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, and robbery in the second degree;

(b) Any conviction (~~(or adjudication)~~) for a felony offense in effect at any time prior to July 1, 1976, which is comparable to a felony classified as a crime of violence in ~~((subsection (2)))~~(a) of this ~~(section)~~ subsection; and

(c) Any federal or out-of-state conviction (~~(or adjudication)~~) for an offense comparable to a felony classified as a crime of violence under ~~((subsection (2)))~~ (a) or (b) of this ~~(section)~~:

~~(3) "Firearm" as used in this chapter means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.~~

~~(4) "Commercial seller" as used in this chapter means a person who has a federal firearms license)~~ subsection.

(12) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

(a) Any crime of violence;

(b) Child molestation in the second degree;

(c) Controlled substance homicide;

(d) Incest when committed against a child under age fourteen;

(e) Indecent liberties;

(f) Leading organized crime;

(g) Promoting prostitution in the first degree;

(h) Rape in the third degree;

(i) Sexual exploitation;

(j) Vehicular assault;

(k) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(l) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(m) Any other felony with a deadly weapon verdict under RCW 9.94A.125;

or

(n) Any felony offense in effect at any time prior to the effective date of this section that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense.

**\*Sec. 402.** RCW 9.41.040 and 1992 c 205 s 118 and 1992 c 168 s 2 are each reenacted and amended to read as follows:

(1) A person, whether an adult or juvenile, is guilty of the crime of unlawful possession of a ~~((short))~~ firearm ~~((or pistol,))~~ if ~~((, having previously been convicted or, as a juvenile, adjudicated in this state or elsewhere of a crime of violence or of a felony in which a firearm was used or displayed,))~~ the person

owns ~~((or))~~, has in his or her possession, or has in his or her control any ~~((short))~~ firearm ~~((or pistol))~~;

(a) After having previously been convicted in this state or elsewhere of a serious offense, a domestic violence offense enumerated in RCW 10.99.020(2), a harassment offense enumerated in RCW 9A.46.060, or of a felony in which a firearm was used or displayed, except as otherwise provided in subsection (3) or (4) of this section;

(b) After having previously been convicted of any felony violation of the uniform controlled substances act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction, except as otherwise provided in subsection (3) or (4) of this section;

(c) After having previously been convicted on three occasions within five years of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug, unless his or her right to possess a firearm has been restored as provided in section 404 of this act;

(d) After having previously been committed for mental health treatment, either voluntarily for a period exceeding fourteen continuous days, or involuntarily under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, unless his or her right to possess a firearm has been restored as provided in section 404 of this act; or

(e) If the person is under eighteen years of age, except as provided in section 403 of this act.

(2) Unlawful possession of a ~~((short))~~ firearm ~~((or pistol shall be punished as))~~ is a class C felony, punishable under chapter 9A.20 RCW.

(3) As used in this section, a person has been "convicted ~~((or adjudicated))~~" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings including but not limited to sentencing or disposition, post-trial or post-factfinding motions, and appeals. A person shall not be precluded from possession of a firearm if the conviction ~~((or adjudication))~~ has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted ~~((or adjudicated))~~ or the conviction or disposition has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

~~(4) ((Except as provided in subsection (5) of this section, a person is guilty of the crime of unlawful possession of a short firearm or pistol if, after having been convicted or adjudicated of any felony violation of the uniform controlled substances act, chapter 69.50 RCW, or equivalent statutes of another jurisdiction, the person owns or has in his or her possession or under his or her control any short firearm or pistol.~~

~~(5))~~ Notwithstanding subsection (1) of this section, a person convicted of an offense other than murder, manslaughter, robbery, rape, indecent liberties, arson, assault, kidnapping, extortion, burglary, or violations with respect to controlled substances under RCW 69.50.401(a) and 69.50.410, who received a

probationary sentence under RCW 9.95.200, and who received a dismissal of the charge under RCW 9.95.240, shall not be precluded from ((ownership,)) possession((, or control)) of a firearm as a result of the conviction.

~~((6)(a) A person who has been committed by court order for treatment of mental illness under RCW 71.05.320 or chapter 10.77 RCW, or equivalent statutes of another jurisdiction, may not possess, in any manner, a firearm as defined in RCW 9.41.010.~~

~~(b) At the time of commitment, the court shall specifically state to the person under (a) of this subsection and give the person notice in writing that the person is barred from possession of firearms.~~

~~(c) The secretary of social and health services shall develop appropriate rules to create an approval process under this subsection. The rules must provide for the immediate restoration of the right to possess a firearm upon a showing in a court of competent jurisdiction that a person no longer is required to participate in an inpatient or outpatient treatment program, and is no longer required to take medication to treat any condition related to the commitment. Unlawful possession of a firearm under this subsection shall be punished as a class C felony under chapter 9A.20 RCW.)~~

(5) In addition to any other penalty provided for by law, if a person under the age of eighteen years is found by a court to have possessed a firearm in a vehicle in violation of subsection (1) of this section or to have committed an offense while armed with a firearm during which offense a motor vehicle served an integral function, the court shall notify the department of licensing within twenty-four hours and the person's privilege to drive shall be revoked under RCW 46.20.265.

\*Sec. 402 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 403. A new section is added to chapter 9.41 RCW to read as follows:

RCW 9.41.040(1)(e) shall not apply to any person under the age of eighteen years who is:

- (1) In attendance at a hunter's safety course or a firearms safety course;
- (2) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;
- (3) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;
- (4) Hunting or trapping under a valid license issued to the person under Title 77 RCW;
- (5) In an area where the discharge of a firearm is permitted, is not trespassing, and the person either: (a) Is at least fourteen years of age, has been issued a hunter safety certificate, and is using a lawful firearm other than a

pistol; or (b) is under the supervision of a parent, guardian, or other adult approved for the purpose by the parent or guardian;

(6) Traveling with any unloaded firearm in the person's possession to or from any activity described in subsection (1), (2), (3), (4), or (5) of this section;

(7) On real property under the control of his or her parent, other relative, or legal guardian and who has the permission of the parent or legal guardian to possess a firearm;

(8) At his or her residence and who, with the permission of his or her parent or legal guardian, possesses a firearm for the purpose of exercising the rights specified in RCW 9A.16.020(3); or

(9) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty.

**\*NEW SECTION. Sec. 404.** A new section is added to chapter 9.41 RCW to read as follows:

(1)(a) At the time a person is convicted of an offense making the person ineligible to possess a firearm, or at the time a person is committed by court order under RCW 71.05.320, 71.34.090, or chapter 10.77 RCW for mental health treatment, the convicting or committing court shall notify the person, orally and in writing, that the person may not possess a firearm unless his or her right to do so is restored by a court of record.

The convicting or committing court also shall forward a copy of the person's driver's license or identicard, or comparable information, to the department of licensing, along with the date of conviction or commitment.

*(b) Upon the expiration of fourteen days of treatment of a person voluntarily committed, if the period of voluntary commitment is to continue, the institution, hospital, or sanitarium shall notify the person, orally and in writing, that the person may not possess a firearm unless his or her right to do so is restored by a court of record.*

*Following fourteen continuous days of treatment, the institution, hospital, or sanitarium also shall forward a copy of the person's driver's license or identicard, or comparable information, to the department of licensing, along with the date of voluntary commitment.*

(2) Upon receipt of the information provided for by subsection (1) of this section, the department of licensing shall determine if the convicted or committed person has a concealed pistol license. If the person does have a concealed pistol license, the department of licensing shall immediately notify the license-issuing authority.

(3) A person who is prohibited from possessing a firearm by reason of having previously been convicted on three occasions of driving a motor vehicle or operating a vessel while under the influence of intoxicating liquor or any drug may, after five continuous years without further conviction for any alcohol-related offense, petition a court of record to have his or her right to possess a firearm restored.

(4)(a) A person who is prohibited from possessing a firearm, by reason of having been either:

(i) *Voluntarily committed for mental health treatment for a period exceeding fourteen continuous days; or*

(ii) Involuntarily committed for mental health treatment under RCW 71.05.320, 71.34.090, chapter 10.77 RCW, or equivalent statutes of another jurisdiction, may, upon discharge, petition a court of record to have his or her right to possess a firearm restored.

(b) At a minimum, a petition under this subsection (4) shall include the following:

(i) The fact, date, and place of commitment;

(ii) The place of treatment;

(iii) The fact and date of release from commitment;

(iv) A certified copy of the most recent order, if one exists, of commitment, with the findings of fact and conclusions of law; and

(v) A statement by the person that he or she is no longer required to participate in an inpatient or outpatient treatment program, is no longer required to take medication to treat any condition related to the commitment, and does not present a substantial danger to himself or herself, to others, or to the public safety.

(c) A person petitioning the court under this subsection (4) shall bear the burden of proving by a preponderance of the evidence that the circumstances resulting in the commitment no longer exist and are not reasonably likely to recur.

\*Sec. 404 was partially vetoed, see message at end of chapter.

**Sec. 405.** RCW 9.41.050 and 1982 1st ex.s. c 47 s 3 are each amended to read as follows:

(1) Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed ~~((weapon))~~ pistol.

~~(2) ((A person who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.~~

~~(3))~~ A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed ~~((weapon))~~ pistol and: (a) The pistol is on the licensee's person, (b) the licensee is within the vehicle at all times that the pistol is there, or (c) the licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.

(3) A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.

(4) Except as otherwise provided in this chapter, no person may carry a firearm unless it is unloaded and enclosed in an opaque case or secure wrapper or the person is:

(a) Licensed under RCW 9.41.070 to carry a concealed pistol;

(b) In attendance at a hunter's safety course or a firearms safety course;

(c) Engaging in practice in the use of a firearm or target shooting at an established range authorized by the governing body of the jurisdiction in which such range is located or any other area where the discharge of a firearm is not prohibited;

(d) Engaging in an organized competition involving the use of a firearm, or participating in or practicing for a performance by an organized group that uses firearms as a part of the performance;

(e) Hunting or trapping under a valid license issued to the person under Title 77 RCW;

(f) In an area where the discharge of a firearm is permitted, and is not trespassing;

(g) Traveling with any unloaded firearm in the person's possession to or from any activity described in (b), (c), (d), (e), or (f) of this subsection, except as provided in (h) of this subsection;

(h) Traveling in a motor vehicle with a firearm, other than a pistol, that is unloaded and locked in the trunk or other compartment of the vehicle, secured in a gun rack, or otherwise secured in place in a vehicle;

(i) On real property under the control of the person or a relative of the person;

(j) At his or her residence;

(k) Is a member of the armed forces of the United States, national guard, or organized reserves, when on duty;

(l) Is a law enforcement officer; or

(m) Carrying a firearm from or to a vehicle for the purpose of taking or removing the firearm to or from a place of business for repair.

(5) Nothing in this section permits the possession of firearms illegal to possess under state or federal law.

(6) Any city, town, or county may enact an ordinance to exempt itself from the prohibition of subsection (4) of this section.

Sec. 406. RCW 9.41.060 and 1961 c 124 s 5 are each amended to read as follows:

The provisions of RCW 9.41.050 shall not apply to:

(1) Marshals, sheriffs, prison or jail wardens or their deputies, (~~police~~) or other law enforcement officers( ~~or to~~);

(2) Members of the (~~army, navy or marine corps~~) armed forces of the United States or of the national guard or organized reserves, when on duty( ~~or to~~);

(3) Officers or employees of the United States duly authorized to carry a concealed pistol;

(4) Any person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of the person, if possessing, using, or carrying a pistol in the usual or ordinary course of the business;

(5) Regularly enrolled members of any organization duly authorized to purchase or receive (~~such weapons~~) pistols from the United States or from this state(~~(, or to)~~);

(6) Regularly enrolled members of clubs organized for the purpose of target shooting (~~(or)~~), when those members are at or are going to or from their places of target practice;

(7) Regularly enrolled members of clubs organized for the purpose of modern and antique firearm collecting (~~(or to)~~), when those members are at or are going to or from their collector's gun shows and exhibits;

(8) Individual hunters(~~(: PROVIDED, Such members are at, or are going to or from their places of target practice, or their collector's gun shows and exhibits, or are on a hunting, camping or fishing trip, or to officers or employees of the United States duly authorized to carry a concealed pistol, or to any person engaged in the business of manufacturing, repairing, or dealing in firearms or the agent or representative of any such person having in his possession, using, or carrying a pistol in the usual or ordinary course of such business, or to)~~) when on a hunting, camping, or fishing trip; or

(9) Any person while carrying a pistol unloaded and in a closed opaque case or secure wrapper (~~(from the place of purchase to his home or place of business or to a place of repair or back to his home or place of business or in moving from one place of abode or business to another)~~).

Sec. 407. RCW 9.41.070 and 1992 c 168 s 1 are each amended to read as follows:

(1) The judge of a court of record, the chief of police of a municipality, or the sheriff of a county, shall within thirty days after the filing of an application of any person issue a license to such person to carry a pistol concealed on his or her person within this state for four years from date of issue, for the purposes of protection or while engaged in business, sport, or while traveling. However, if the applicant does not have a valid permanent Washington driver's license or Washington state identification card or has not been a resident of the state for the previous consecutive ninety days, the issuing authority shall have up to sixty days after the filing of the application to issue a license. The issuing authority shall not refuse to accept completed applications for concealed pistol licenses during regular business hours.

~~((Such))~~ The applicant's constitutional right to bear arms shall not be denied, unless he or she:

(a) Is ineligible to (~~own a pistol~~) possess a firearm under the provisions of RCW 9.41.040; (~~(or)~~)

(b) Is under twenty-one years of age; (~~(or)~~)

(c) Is subject to a court order or injunction regarding firearms pursuant to RCW 9A.46.080, 10.14.080, 10.99.040, 10.99.045, ~~(~~or~~) 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~~)~~

(d) Is free on bond or personal recognizance pending trial, appeal, or sentencing for a ~~((~~crime of violence~~))~~ serious offense; ~~(~~or~~)~~

(e) Has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; ~~(~~or~~)~~

(f) Has been ordered to forfeit a firearm under RCW 9.41.098(1)(d) within one year before filing an application to carry a pistol concealed on his or her person; or

(g)(i) Has been convicted of any ~~((of the following offenses: Assault in the third degree, indecent liberties, malicious mischief in the first degree, possession of stolen property in the first or second degree, or theft in the first or second degree. Any))~~ crime against a child or other person listed in RCW 43.43.830(5).

(ii) Except as provided in (g)(iii) of this subsection, any person who becomes ineligible for a concealed pistol ~~((~~permit~~))~~ license as a result of a conviction for a crime listed in ~~((this subsection (1))~~(g)(i) of this subsection and then successfully completes all terms of his or her sentence, as evidenced by a certificate of discharge issued under RCW 9.94A.220 in the case of a sentence under chapter 9.94A RCW, and has not again been convicted of any crime and is not under indictment for any crime, may, one year or longer after such successful sentence completion, petition ~~((the district))~~ a court of record for a declaration that the person is no longer ineligible for a concealed pistol ~~((~~permit~~))~~ license under ~~((this subsection (1))~~(g)(i) of this subsection.

(iii) No person convicted of a serious offense as defined in RCW 9.41.010 may have his or her right to possess firearms 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 to possess a pistol 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.

~~((3) The license shall be revoked by the issuing authority immediately upon conviction of a crime which makes such a person ineligible to own a pistol or~~



~~upon the third conviction for a violation of this chapter within five calendar years.~~

~~(4) Upon an order to forfeit a firearm under RCW 9.41.098(1)(d) the issuing authority shall:~~

~~(a) On the first forfeiture, revoke the license for one year;~~

~~(b) On the second forfeiture, revoke the license for two years;~~

~~(c) On the third or subsequent forfeiture, revoke the license for five years.~~

~~Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period. The issuing authority shall notify, in writing, the department of licensing upon revocation of a license. The department of licensing shall record the revocation.~~

~~(3))~~ (4) The license application shall be in triplicate, in form to be prescribed by the department of licensing, and shall bear the full name, street address, ((and)) date and place of birth, race, gender, description, fingerprints, and signature of the licensee, and the licensee's driver's license number or state identification card number if used for identification in applying for the license. 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 license application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. A state license is not a defense to a federal prosecution.

The license application shall contain a description of the major differences between state and federal law and an explanation of the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law. The application shall contain questions about the applicant's eligibility under RCW 9.41.040 to possess a pistol, the applicant's place of birth, whether the applicant is a United States citizen, ((and if not a citizen whether the applicant has declared the intent to become a citizen)) and whether he or she has been required to register with the state or federal government and any identification or registration number, if applicable. The applicant shall not be required to produce a birth certificate or other evidence of citizenship. ~~((An applicant who is not a citizen shall provide documentation showing resident alien status and the applicant's intent to become a citizen. A person who makes a false statement regarding citizenship on the application is guilty of a misdemeanor.))~~ A person who is not a citizen of the United States ~~((or has not declared his or her intention to become a citizen))~~ shall meet the additional requirements of RCW 9.41.170.

The original thereof shall be delivered to the licensee, the duplicate shall within seven days be sent by registered mail to the director of licensing and the triplicate shall be preserved for six years, by the authority issuing ~~((said))~~ 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.

~~((6))~~ (5) The fee for the original issuance of a four-year license shall be ((twenty-three)) fifty dollars((:—PROVIDED, That)). No other ((additional charges by any)) branch or unit of government ((shall be borne by)) may impose any additional charges on the applicant for the issuance of the license((:—PROVIDED FURTHER, That)).

The fee shall be distributed as follows:

- (a) ~~((Four))~~ Fifteen dollars shall be paid to the state general fund;
- (b) ~~((Four))~~ Ten dollars shall be paid to the agency taking the fingerprints of the person licensed;
- (c) ~~((Twelve))~~ Fifteen dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
- (d) ~~((Three))~~ Ten dollars to the firearms range account in the general fund.

~~((7))~~ (6) The fee for the renewal of such license shall be ((fifteen)) fifty dollars((:—PROVIDED, That)). No other ((additional charges by any)) branch or unit of government ((shall be borne by)) may impose any additional charges on the applicant for the renewal of the license((:—PROVIDED FURTHER, That)).

The renewal fee shall be distributed as follows:

- (a) ~~((Four))~~ Twenty dollars shall be paid to the state general fund;
  - (b) ~~((Eight))~~ Twenty dollars shall be paid to the issuing authority for the purpose of enforcing this chapter; and
  - (c) ~~((Three))~~ Ten dollars to the firearms range account in the general fund.
- ~~((8))~~ (7) 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))~~ (8) 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)) twenty dollars in addition to the renewal fee specified in subsection ((7)) (6) of this section. The fee shall be distributed as follows:

- (a) ~~((Three))~~ Ten dollars shall be deposited in the state wildlife fund and used exclusively for the printing and distribution of a pamphlet on the legal limits of the use of firearms, firearms safety, and the preemptive nature of state law. The pamphlet shall be given to each applicant for a license; and
- (b) ~~((Seven))~~ Ten dollars shall be paid to the issuing authority for the purpose of enforcing this chapter.

~~((10))~~ (9) Notwithstanding the requirements of subsections (1) through ~~((9))~~ (8) 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.

~~((11))~~ (10) A political subdivision of the state shall not modify the requirements of this section or chapter, nor may a political subdivision ask the applicant to voluntarily submit any information not required by this section. ~~((A civil suit may be brought to enjoin a wrongful refusal to issue a license or a wrongful modification of the requirements of this section or chapter. The civil suit may be brought in the county in which the application was made or in Thurston county at the discretion of the petitioner. Any person who prevails against a public agency in any action in the courts for a violation of this chapter shall be awarded costs, including reasonable attorneys' fees, incurred in connection with such legal action.))~~

(11) 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.

(12) 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.

NEW SECTION. Sec. 408. A new section is added to chapter 9.41 RCW to read as follows:

(1) The license shall be revoked by the license-issuing authority immediately upon:

(a) Discovery by the issuing authority that the person was ineligible under RCW 9.41.070 for a concealed pistol license when applying for the license or license renewal;

(b) Conviction of the licensee of an offense, or commitment of the licensee for mental health treatment, that makes a person ineligible under RCW 9.41.040 to possess a firearm;

(c) Conviction of the licensee for a third violation of this chapter within five calendar years; or

(d) An order that the licensee forfeit a firearm under RCW 9.41.098(1)(d).

(2)(a) Unless the person may lawfully possess a pistol without a concealed pistol license, an ineligible person to whom a concealed pistol license was issued shall, within fourteen days of license revocation, lawfully transfer ownership of any pistol acquired while the person was in possession of the license.

(b) Upon discovering a person issued a concealed pistol license was ineligible for the license, the issuing authority shall contact the department of licensing to determine whether the person purchased a pistol while in possession of the license. If the person did purchase a pistol while in possession of the concealed pistol license, if the person may not lawfully possess a pistol without a concealed pistol license, the issuing authority shall require the person to present satisfactory evidence of having lawfully transferred ownership of the pistol. The issuing authority shall require the person to produce the evidence within fifteen days of the revocation of the license.

(3) When a licensee is ordered to forfeit a firearm under RCW 9.41.098(1)(d), the issuing authority shall:

(a) On the first forfeiture, revoke the license for one year;

(b) On the second forfeiture, revoke the license for two years; or

(c) On the third or subsequent forfeiture, revoke the license for five years.

Any person whose license is revoked as a result of a forfeiture of a firearm under RCW 9.41.098(1)(d) may not reapply for a new license until the end of the revocation period.

(4) The issuing authority shall notify, in writing, the department of licensing of the revocation of a license. The department of licensing shall record the revocation.

**Sec. 409.** RCW 9.41.080 and 1935 c 172 s 8 are each amended to read as follows:

No person ~~((shall))~~ may deliver a ~~((pistol))~~ firearm to any person ~~((under the age of twenty one or to one who he has reasonable cause to believe has been convicted of a crime of violence, or is a drug addict, an habitual drunkard, or of unsound mind))~~ whom he or she has reasonable cause to believe is ineligible under RCW 9.41.040 to possess a firearm. Any person violating this section is guilty of a class C felony, punishable under chapter 9A.20 RCW.

**Sec. 410.** RCW 9.41.090 and 1988 c 36 s 2 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no ~~((commercial seller shall))~~ dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the ~~((commercial seller))~~ dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection ~~((4))~~ (5) of this section; ~~((or))~~

(b) The ~~((seller))~~ dealer is notified in writing by the chief of police ~~((of the municipality))~~ or the sheriff of the ~~((county))~~ jurisdiction in which the purchaser resides that the purchaser ~~((meets the requirements of))~~ is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is ((granted)) approved by the chief of police or sheriff; or

(c) Five ~~((nonsecutive))~~ business days ~~((including Saturday, Sunday and holidays))~~, meaning days on which state offices are open, have elapsed from the

time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection ~~((4))~~ (5) of this section, and, when delivered, ~~((said))~~ the pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days.

(2)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, 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 to possess a firearm.

(b) Once the system is established, a dealer shall use the national instant criminal background check system, provided for by the Brady Handgun Control Act (H.R. 1025, 103rd Cong., 1st Sess. (1993)), to make criminal background checks of applicants to purchase firearms. However, a chief of police or sheriff, or a designee of either, shall continue to check the department of social and health services' electronic data base and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.

(3) In any case under subsection (1)(c) of this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the ~~((seller))~~ dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the ~~((seller))~~ dealer so that the hold may be released if the warrant was for ~~((a crime other than a crime of violence))~~ an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a pistol.

~~((3))~~ (4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for ~~((a crime of violence, or (e) an arrest for a crime of violence))~~ an offense making a person ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol beyond five days up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold will be lifted unless an extension of the thirty days is

approved by a local district court or municipal court for good cause shown. An applicant shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

~~((4))~~ (5) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the ~~((seller))~~ dealer an application containing his or her full name, street address, date and place of birth, ~~((and))~~ race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; ~~((and))~~ a description of the ~~((weapon))~~ pistol including~~((s))~~ the make, model, caliber and manufacturer's number; and a statement that the purchaser is eligible to ~~((own))~~ possess a pistol under RCW 9A.10.040.

The application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The ~~((seller))~~ dealer shall, by the end of the business day, sign and attach his or her address and deliver the original of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the ~~((seller))~~ purchaser is a resident. The ~~((seller))~~ dealer shall deliver the pistol to the purchaser following the period of time specified in this section unless the ~~((seller))~~ dealer is notified in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser ~~((fails to meet the requirements specified in))~~ is not eligible to possess a pistol under RCW 9A.10.040. ~~((The chief of police of the municipality or the county sheriff shall maintain a file containing the original of the application to purchase a pistol.))~~

The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

(6) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a pistol is guilty of false swearing under RCW 9A.72.040.

(7) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

**NEW SECTION. Sec. 411.** A new section is added to chapter 9.41 RCW to read as follows:

A signed application to purchase a pistol 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, to an inquiring court or law enforcement agency, information relevant to the applicant's eligibility to purchase a pistol to an inquiring court or law enforcement agency.

**Sec. 412.** RCW 9.41.097 and 1983 c 232 s 5 are each amended to read as follows:

(1) The department of social and health services, mental health institutions, and other health care facilities shall, upon request of a court or law enforcement agency, supply such relevant information as is necessary to determine the eligibility of a person to possess a pistol or to be issued a concealed pistol license under RCW 9.41.070 or to purchase a pistol under RCW 9.41.090. ~~((Such information shall be used exclusively for the purposes specified in this section and shall not be made available for public inspection except by the person who is the subject of the information.))~~

(2) Mental health information received by: (a) The department of licensing pursuant to section 404 of this act or RCW 9.41.170; (b) an issuing authority pursuant to section 404 of this act or RCW 9.41.070; (c) a chief of police or sheriff pursuant to RCW 9.41.090 or 9.41.170; (d) a court or law enforcement agency pursuant to subsection (1) of this section, shall not be disclosed except as provided in RCW 42.17.318.

**NEW SECTION. Sec. 413.** A new section is added to chapter 9.41 RCW to follow RCW 9.41.097 to read as follows:

(1) The state, local governmental entities, any public or private agency, and the employees of any state or local governmental entity or public or private agency, acting in good faith, are immune from liability:

(a) For failure to prevent the sale or transfer of a firearm to a person whose receipt or possession of the firearm is unlawful;

(b) For preventing the sale or transfer of a firearm to a person who may lawfully receive or possess a firearm;

(c) For issuing a concealed pistol license to a person ineligible for such a license;

(d) For failing to issue a concealed pistol license to a person eligible for such a license;

(e) For revoking or failing to revoke an issued concealed pistol license; or

(f) For errors in preparing or transmitting information as part of determining a person's eligibility to receive or possess a firearm, or eligibility for a concealed pistol license.

(2) An application may be made to a court of competent jurisdiction for a writ of mandamus:

(a) Directing an issuing agency to issue a concealed pistol license wrongfully refused;

(b) Directing a law enforcement agency to approve an application to purchase wrongfully denied; or

(c) Directing that erroneous information resulting either in the wrongful refusal to issue a concealed pistol license or in the wrongful denial of a purchase application be corrected.

The application for the writ may be made in the county in which the application for a concealed pistol license or to purchase a pistol was made, or in Thurston county, at the discretion of the petitioner. A court shall provide an expedited hearing for an application brought under this subsection (2) for a writ of mandamus. A person granted a writ of mandamus under this subsection (2) shall be awarded reasonable attorneys' fees and costs.

**Sec. 414.** RCW 9.41.098 and 1993 c 243 s 1 are each amended to read as follows:

(1) The superior courts and the courts of limited jurisdiction of the state may order forfeiture of a firearm which is proven to be:

(a) Found concealed on a person not authorized by RCW 9.41.060 or 9.41.070 to carry a concealed pistol: PROVIDED, That it is an absolute defense to forfeiture if the person possessed a valid Washington concealed pistol license within the preceding two years and has not become ineligible for a concealed pistol license in the interim. Before the firearm may be returned, the person must pay the past due renewal fee and the current renewal fee;

(b) Commercially sold to any person without an application as required by RCW 9.41.090;

(c) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;

(d) Found in the possession or under the control of a person at the time the person committed or was arrested for committing a ~~((crime of violence))~~ serious offense or a crime in which a firearm was used or displayed or a felony violation of the Uniform Controlled Substances Act, chapter 69.50 RCW;

~~((d))~~ (e) Found concealed on a person who is in any place in which a concealed pistol license is required, and who is under the influence of any drug or under the influence of intoxicating liquor, ~~((having 0.10 grams or more of alcohol per two hundred ten liters of breath or 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's breath, blood, or other bodily substance))~~ as defined in chapter 46.61 RCW;

~~((e) Found in the possession of a person prohibited from possessing the firearm under RCW 9.41.040;))~~

(f) Found in the possession of a person free on bail or personal recognizance pending trial, appeal, or sentencing for a ~~((crime of violence))~~ serious offense or a crime in which a firearm was used or displayed, except that violations of Title 77 RCW shall not result in forfeiture under this section;



(g) Found in the possession of a person found to have been mentally incompetent while in possession of a firearm when apprehended or who is thereafter committed pursuant to chapter 10.77 or 71.05 RCW;

(h) Known to have been used or displayed by a person in the violation of a proper written order of a court of general jurisdiction; or

(i) Known to have been used in the commission of a ~~((crime of violence))~~ serious offense or a crime in which a firearm was used or displayed or a felony violation of the ~~((Uniformed [Uniform]))~~ Uniform Controlled Substances Act, chapter 69.50 RCW.

(2) Upon order of forfeiture, the court in its discretion ~~((shall))~~ may order destruction of any forfeited firearm ~~((that is illegal for any person to possess))~~. A court may temporarily retain forfeited firearms needed for evidence.

(a) Except as provided in (b), (c), and (d) of this subsection, firearms that are: (i) Judicially forfeited and no longer needed for evidence; or (ii) forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010; may be disposed of in any manner determined by the local legislative authority. Any proceeds of an auction or trade may be retained by the legislative authority. This subsection (2)(a) applies only to firearms that come into the possession of the law enforcement agency after June 30, 1993, and applies only if the law enforcement agency has complied with (b) of this subsection.

By midnight, June 30, 1993, every law enforcement agency shall prepare an inventory, under oath, of every firearm that has been judicially forfeited, has been seized and may be subject to judicial forfeiture, or that has been, or may be, forfeited due to a failure to make a claim under RCW 63.32.010 or 63.40.010.

(b) Except as provided in (c) of this subsection, of the inventoried firearms a law enforcement agency shall destroy illegal firearms, may retain a maximum of ten percent of legal forfeited firearms for agency use, and shall either:

(i) Comply with the provisions for the auction of firearms in RCW 9.41.098 that were in effect immediately preceding May 7, 1993; or

(ii) Trade, auction, or arrange for the auction of, rifles and shotguns. In addition, the law enforcement agency shall either trade, auction, or arrange for the auction of, short firearms, or shall pay a fee of twenty-five dollars to the state treasurer for every short firearm neither auctioned nor traded, to a maximum of fifty thousand dollars. The fees shall be accompanied by an inventory, under oath, of every short firearm listed in the inventory required by (a) of this subsection, that has been neither traded nor auctioned. The state treasurer shall credit the fees to the firearms range account established in RCW 77.12.720. All trades or auctions of firearms under this subsection shall be to ~~((commercial sellers))~~ licensed dealers. Proceeds of any auction less costs, including actual costs of storage and sale, shall be forwarded to the firearms range account established in RCW 77.12.720.

(c) Antique firearms ~~((as defined by RCW 9.41.150))~~ and firearms recognized as curios, relics, and firearms of particular historical significance by

the United States treasury department bureau of alcohol, tobacco, and firearms are exempt from destruction and shall be disposed of by auction or trade to ~~((commercial sellers))~~ licensed dealers.

(d) Firearms in the possession of the Washington state patrol on or after May 7, 1993, that are judicially forfeited and no longer needed for evidence, or forfeited due to a failure to make a claim under RCW 63.35.020, must be disposed of as follows: (i) Firearms illegal for any person to possess must be destroyed; (ii) the Washington state patrol may retain a maximum of ten percent of legal firearms for agency use; and (iii) all other legal firearms must be auctioned or traded to ~~((commercial sellers))~~ licensed dealers. The Washington state patrol may retain any proceeds of an auction or trade.

(3) The court shall order the firearm returned to the owner upon a showing that there is no probable cause to believe a violation of subsection (1) of this section existed or the firearm was stolen from the owner or the owner neither had knowledge of nor consented to the act or omission involving the firearm which resulted in its forfeiture.

(4) A law enforcement officer of the state or of any county or municipality may confiscate a firearm found to be in the possession of a person under circumstances specified in subsection (1) of this section. After confiscation, the firearm shall not be surrendered except: (a) To the prosecuting attorney for use in subsequent legal proceedings; (b) for disposition according to an order of a court having jurisdiction as provided in subsection (1) of this section; or (c) to the owner if the proceedings are dismissed or as directed in subsection (3) of this section.

**Sec. 415.** RCW 9.41.100 and 1935 c 172 s 10 are each amended to read as follows:

~~((No retail))~~ Every dealer shall ~~((sell or otherwise transfer, or expose for sale or transfer, or have in his possession with intent to sell, or otherwise transfer, any pistol without being))~~ be licensed as ~~((hereinafter))~~ provided in RCW 9.41.110 and shall register with the department of revenue as provided in chapters 82.04 and 82.32 RCW.

**Sec. 416.** RCW 9.41.110 and 1979 c 158 s 2 are each amended to read as follows:

(1) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any pistol without being licensed as provided in this section.

(2) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any firearm other than a pistol without being licensed as provided in this section.

(3) No dealer may sell or otherwise transfer, or expose for sale or transfer, or have in his or her possession with intent to sell, or otherwise transfer, any ammunition without being licensed as provided in this section.

(4) The duly constituted licensing authorities of any city, town, or political subdivision of this state shall grant licenses in forms prescribed by the director of licensing effective for not more than one year from the date of issue permitting the licensee to sell (~~(pistols)~~) firearms within this state subject to the following conditions, for breach of any of which the license shall be forfeited and the licensee subject to punishment as provided in RCW 9.41.010 through 9.41.160 (as recodified by this act). A licensing authority shall forward a copy of each license granted to the department of licensing. The department of licensing shall notify the department of revenue of the name and address of each dealer licensed under this section.

(5)(a) A licensing authority shall, within thirty days after the filing of an application of any person for a dealer's license, determine whether to grant the license. 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 licensing authority shall have up to sixty days to determine whether to issue a license. No person shall qualify for a license under this section without first receiving a federal firearms license and undergoing fingerprinting and a background check. In addition, no person ineligible to possess a firearm under RCW 9.41.040 or ineligible for a concealed pistol license under RCW 9.41.070 shall qualify for a dealer's license.

(b) A dealer shall require every employee who may sell a firearm in the course of his or her employment to undergo fingerprinting and a background check. An employee must be eligible to possess a firearm, and must not have been convicted of a crime that would make the person ineligible for a concealed pistol license, before being permitted to sell a firearm. Every employee shall comply with requirements concerning purchase applications and restrictions on delivery of pistols that are applicable to dealers.

~~((+))~~ (6)(a) Except as otherwise provided in (b) of this subsection, the business shall be carried on only in the building designated in the license. For the purpose of this section, advertising firearms for sale shall not be considered the carrying on of business.

~~((2))~~ (b) A dealer may conduct business temporarily at a location other than the building designated in the license, if the temporary location is within Washington state and is the location of a gun show sponsored by a national, state, or local organization, or an affiliate of any such organization, devoted to the collection, competitive use, or other sporting use of firearms in the community. Nothing in this subsection (6)(b) authorizes a dealer to conduct business in or from a motorized or towed vehicle.

In conducting business temporarily at a location other than the building designated in the license, the dealer shall comply with all other requirements imposed on dealers by RCW 9.41.090, 9.41.100, and 9.41.110. The license of a dealer who fails to comply with the requirements of RCW 9.41.080 and 9.41.090 and subsection (8) of this section while conducting business at a

temporary location shall be revoked, and the dealer shall be permanently ineligible for a dealer's license.

(7) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises in the area where firearms are sold, or at the temporary location, where it can easily be read.

~~((3))~~ (8)(a) No pistol ~~((shall))~~ may be sold ~~((to))~~: (i) In violation of any provisions of RCW 9.41.010 through 9.41.160~~((7))~~ (as recodified by this act); nor ~~((to))~~ ~~((shall))~~ (ii) may a pistol be sold under any circumstances unless the purchaser is personally known to the ~~((seller))~~ dealer or shall present clear evidence of his or her identity.

~~((4))~~ (b) A dealer who sells or delivers any firearm in violation of RCW 9.41.080 is guilty of a class C felony. In addition to any other penalty provided for by law, the dealer is subject to mandatory permanent revocation of his or her dealer's license and permanent ineligibility for a dealer's license.

(c) The license fee for pistols shall be one hundred twenty-five dollars. The license fee for firearms other than pistols shall be one hundred twenty-five dollars. The license fee for ammunition shall be one hundred twenty-five dollars. Any dealer who obtains any license under subsection (1), (2), or (3) of this section may also obtain the remaining licenses without payment of any fee. The fees received under this section shall be deposited in the account under RCW 69.50.520.

(9)(a) A true record in triplicate shall be made of every pistol sold, in a book kept for the purpose, the form of which may be prescribed by the director of licensing and shall be personally signed by the purchaser and by the person effecting the sale, each in the presence of the other, and shall contain the date of sale, the caliber, make, model and manufacturer's number of the weapon, the name, address, occupation, ~~((color))~~ and place of birth of the purchaser and a statement signed by the purchaser that he ~~((has never been convicted in this state or elsewhere of a crime of violence))~~ or she is not ineligible under RCW 9.41.040 to possess a firearm.

(b) One copy shall within six hours be sent by ~~((registered))~~ certified mail to the chief of police of the municipality or the sheriff of the county of which the ~~((dealer))~~ purchaser is a resident; the duplicate the dealer shall within seven days send to the director of licensing; the triplicate the dealer shall retain for six years.

~~((5))~~ (10) Subsections (2) through (9) of this section shall not apply to sales at wholesale.

~~((6))~~ (11) The dealer's licenses authorized to be issued by this section are general licenses covering all sales by the licensee within the effective period of the licenses. The department shall provide a single application form for dealer's licenses and a single license form which shall indicate the type or types of licenses granted.

~~((7))~~ (12) Except as provided in RCW 9.41.090 ~~((as now or hereinafter amended))~~, every city, town, and political subdivision of this state is prohibited

from requiring the purchaser to secure a permit to purchase or from requiring the dealer to secure an individual permit for each sale.

~~((The fee paid for issuing said license shall be five dollars which fee shall be paid into the state treasury.))~~

**NEW SECTION. Sec. 417.** A new section is added to chapter 9.41 RCW to read as follows:

The department of licensing may keep copies or records of applications for concealed pistol licenses provided for in RCW 9.41.070, copies or records of applications for alien firearm licenses, copies or records of applications to purchase pistols provided for in RCW 9.41.090, and copies or records of pistol transfers provided for in RCW 9.41.110. The copies and records shall not be disclosed except as provided in RCW 42.17.318.

**NEW SECTION. Sec. 418.** A new section is added to chapter 9.41 RCW to read as follows:

(1) At least once every twelve months, the department of licensing shall obtain a list of dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in the state of Washington from the United States bureau of alcohol, tobacco, and firearms. The department of licensing shall verify that all dealers on the list provided by the bureau of alcohol, tobacco, and firearms are licensed and registered as required by RCW 9.41.100.

(2) At least once every twelve months, the department of licensing shall obtain from the department of revenue and the department of revenue shall transmit to the department of licensing a list of dealers registered with the department of revenue whose gross proceeds of sales are below the reporting threshold provided in RCW 82.04.300, and a list of dealers whose names and addresses were forwarded to the department of revenue by the department of licensing under RCW 9.41.110, who failed to register with the department of revenue as required by RCW 9.41.100.

(3) At least once every twelve months, the department of licensing shall notify the bureau of alcohol, tobacco, and firearms of all dealers licensed under 18 U.S.C. Sec. 923(a) with business premises in the state of Washington who have not complied with the licensing or registration requirements of RCW 9.41.100, or whose gross proceeds of sales are below the reporting threshold provided in RCW 82.04.300. In notifying the bureau of alcohol, tobacco, and firearms, the department of licensing shall not specify whether a particular dealer has failed to comply with licensing requirements, has failed to comply with registration requirements, or has gross proceeds of sales below the reporting threshold.

**Sec. 419.** RCW 9.41.140 and 1961 c 124 s 10 are each amended to read as follows:

No person ~~((shall))~~ may change, alter, remove, or obliterate the name of the maker, model, manufacturer's number, or other mark of identification on any ~~((pistol))~~ firearm. Possession of any ~~((pistol))~~ firearm upon which any such

mark shall have been changed, altered, removed, or obliterated, shall be prima facie evidence that the possessor has changed, altered, removed, or obliterated the same. This section shall not apply to replacement barrels in old ~~((revolvers))~~ firearms, which barrels are produced by current manufacturers and therefore do not have the markings on the barrels of the original manufacturers who are no longer in business. This section also shall not apply if the changes do not make the firearm illegal for the person to possess under state or federal law.

**Sec. 420.** RCW 9.41.190 and 1982 1st ex.s. c 47 s 2 are each amended to read as follows:

(1) It is unlawful for any person to manufacture, own, buy, sell, loan, furnish, transport, or have in possession or under control, any machine gun, short-barreled shotgun, or short-barreled rifle; or any part ~~((thereof capable of use))~~ designed and intended solely and exclusively for use in a machine gun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle; or ~~((assembling))~~ to assemble or ~~((repairing))~~ repair any machine gun~~((—PROVIDED, HOWEVER, That such limitation)),~~ short-barreled shotgun, or short-barreled rifle.

(2) This section shall not apply to:

(a) Any peace officer in the discharge of official duty or traveling to or from official duty, or to any officer or member of the armed forces of the United States or the state of Washington~~((—PROVIDED FURTHER, That this section does not apply to))~~ in the discharge of official duty or traveling to or from official duty; or

(b) A person, including an employee of such person if the employee has undergone fingerprinting and a background check, who or which is exempt from or licensed under ~~((the National Firearms Act (26 U.S.C. section 5801 et seq.))~~ federal law, and engaged in the production, manufacture, repair, or testing of ~~((weapons or equipment to be used or purchased by the armed forces of the United States, and having a United States government industrial security clearance.))~~ machine guns, short-barreled shotguns, or short-barreled rifles:

(i) To be used or purchased by the armed forces of the United States;

(ii) To be used or purchased by federal, state, county, or municipal law enforcement agencies; or

(iii) For exportation in compliance with all applicable federal laws and regulations.

(3) It shall be an affirmative defense to a prosecution brought under this section that the machine gun, short-barreled shotgun, or short-barreled rifle was acquired prior to the effective date of this section and is possessed in compliance with federal law.

(4) Any person violating this section is guilty of a class C felony.

**Sec. 421.** RCW 9.41.220 and 1933 c 64 s 4 are each amended to read as follows:

All machine guns, short-barreled shotguns, or short-barreled rifles, or ~~((parts thereof))~~ any part designed and intended solely and exclusively for use in a machine gun, short-barreled shotgun, or short-barreled rifle, or in converting a weapon into a machine gun, short-barreled shotgun, or short-barreled rifle, illegally held or illegally possessed are hereby declared to be contraband, and it shall be the duty of all peace officers, and/or any officer or member of the armed forces of the United States or the state of Washington, to seize said machine gun, short-barreled shotgun, or short-barreled rifle, or parts thereof, wherever and whenever found.

Sec. 422. RCW 9.41.230 and 1909 c 249 s 307 are each amended to read as follows:

~~((Every))~~ (1) For conduct not amounting to a violation of chapter 9A.36 RCW, any person who ((shall)):

(a) Aims any ((gun, pistol, revolver or other)) firearm, whether loaded or not, at or towards any human being((, or who shall));

(b) Willfully discharges any firearm, air gun, or other weapon, or throws any deadly missile in a public place, or in any place where any person might be endangered thereby((, although no injury result, shall be)). A public place shall not include any location at which firearms are authorized to be lawfully discharged; or

(c) Except as provided in RCW 9.41.185, sets a so-called trap, spring pistol, rifle, or other dangerous weapon, although no injury results, is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) If an injury results from a violation of subsection (1) of this section, the person violating subsection (1) of this section shall be subject to the applicable provisions of chapters 9A.32 and 9A.36 RCW.

Sec. 423. RCW 9.41.240 and 1971 c 34 s 1 are each amended to read as follows:

~~((No minor under the age of fourteen years shall handle or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian or other adult approved for the purpose of this section by the parent or guardian, or while under the supervision of a certified safety instructor at an established gun range or firearm training class, any firearm of any kind for hunting or target practice or for other purposes. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor.))~~

Unless an exception under section 403 of this act or RCW 9.41.050 or 9.41.060 applies, a person at least eighteen years of age, but less than twenty-one years of age, may possess a pistol only:

(1) In the person's place of abode;

(2) At the person's fixed place of business; or

(3) On real property under his or her control.

Sec. 424. RCW 9.41.250 and 1959 c 143 s 1 are each amended to read as follows:

Every person who ~~((shall))~~:

(1) Manufactures, sells, or disposes of or ~~((have in his possession))~~ possesses any instrument or weapon of the kind usually known as slung shot, sand club, or metal knuckles, or spring blade knife, or any knife the blade of which is automatically released by a spring mechanism or other mechanical device, or any knife having a blade which opens, or falls, or is ejected into position by the force of gravity, or by an outward, downward, or centrifugal thrust or movement; ~~((who shall))~~

(2) Furtively ~~((carry))~~ carries with intent to conceal any dagger, dirk, pistol, or other dangerous weapon; or ~~((who shall))~~

(3) Uses any contrivance or device for suppressing the noise of any firearm, ~~((shall be))~~

is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

Sec. 425. RCW 9.41.260 and 1909 c 249 s 283 are each amended to read as follows:

Every proprietor, lessee, or occupant of any place of amusement, or any plat of ground or building, who ~~((shall))~~ allows it to be used for the exhibition of skill in throwing any sharp instrument or in shooting any bow gun~~((, pistol))~~ or firearm of any description, at or toward any human being, ~~((shall be))~~ is guilty of a misdemeanor punishable under chapter 9A.20 RCW.

Sec. 426. RCW 9.41.270 and 1969 c 8 s 1 are each amended to read as follows:

(1) It shall be unlawful for ~~((anyone))~~ any person to carry, exhibit, display, or draw any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, or any other weapon apparently capable of producing bodily harm, in a manner, under circumstances, and at a time and place that either manifests an intent to intimidate another or that warrants alarm for the safety of other persons.

(2) Any person violating the provisions of subsection (1) above shall be guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1) of this section, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

(3) Subsection (1) of this section shall not apply to or affect the following:

(a) Any act committed by a person while in his or her place of abode or fixed place of business;

(b) Any person who by virtue of his or her office or public employment is vested by law with a duty to preserve public safety, maintain public order, or to make arrests for offenses, while in the performance of such duty;



(c) Any person acting for the purpose of protecting himself or herself against the use of presently threatened unlawful force by another, or for the purpose of protecting another against the use of such unlawful force by a third person;

(d) Any person making or assisting in making a lawful arrest for the commission of a felony; or

(e) Any person engaged in military activities sponsored by the federal or state governments.

**Sec. 427.** RCW 9.41.280 and 1993 c 347 s 1 are each amended to read as follows:

(1) It is unlawful for a person to carry onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools:

(a) Any firearm; ((~~or~~))

(b) Any other dangerous weapon as defined in RCW 9.41.250; ((~~or~~))

(c) Any device commonly known as "nun-chu-ka sticks", consisting of two or more lengths of wood, metal, plastic, or similar substance connected with wire, rope, or other means; ((~~or~~))

(d) Any device, commonly known as "throwing stars", which are multi-pointed, metal objects designed to embed upon impact from any aspect; or

(e) Any air gun, including any air pistol or air rifle, designed to propel a BB, pellet, or other projectile by the discharge of compressed air, carbon dioxide, or other gas.

(2) Any such person violating subsection (1) of this section is guilty of a gross misdemeanor. If any person is convicted of a violation of subsection (1)(a) of this section, the person shall lose his or her concealed pistol license, if any. The court shall send notice of the revocation to the department of licensing, and the city, town, or county which issued the license.

Any violation of subsection (1) of this section by elementary or secondary school students constitutes grounds for expulsion from the state's public schools in accordance with RCW 28A.600.010. However, any violation of subsection (1)(a) of this section by an elementary or secondary school student shall result in expulsion for an indefinite period of time in accordance with RCW 28A.600.010. An appropriate school authority shall promptly notify law enforcement and the student's parent or guardian regarding any allegation or indication of such violation.

(3) Subsection (1) of this section does not apply to:

(a) Any student or employee of a private military academy when on the property of the academy;

(b) Any person engaged in military, law enforcement, or school district security activities;

(c) Any person who is involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by school authorities in which the firearms of collectors or instructors are handled or displayed;

~~(d) ((Any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises;~~

~~(e))~~ Any person while the person is participating in a firearms or air gun competition approved by the school or school district;

~~((f))~~ (e) Any person in possession of a pistol who has been issued a license under RCW 9.41.070, or is exempt from the licensing requirement by RCW 9.41.060, while picking up or dropping off a student;

~~((g))~~ (f) Any ((person)) nonstudent at least eighteen years of age legally in possession of a firearm or dangerous weapon that is secured within an attended vehicle or concealed from view within a locked unattended vehicle while conducting legitimate business at the school;

~~((h))~~ (g) Any ((person)) nonstudent at least eighteen years of age who is in lawful possession of an unloaded firearm, secured in a vehicle while conducting legitimate business at the school; or

~~((i))~~ (h) Any law enforcement officer of the federal, state, or local government agency.

(4) Subsections (1) (c) and (d) of this section do not apply to any person who possesses nun-chu-ka sticks, throwing stars, or other dangerous weapons to be used in martial arts classes authorized to be conducted on the school premises.

(5) Except as provided in subsection (3)(b), (c), ~~((e))~~ (f), and ~~((i))~~ (h) of this section, firearms are not permitted in a public or private school building.

~~((j))~~ (6) "GUN-FREE ZONE" signs shall be posted around school facilities giving warning of the prohibition of the possession of firearms on school grounds.

**Sec. 428.** RCW 9.41.290 and 1985 c 428 s 1 are each amended to read as follows:

The state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, including ammunition and reloader components. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to firearms that are specifically authorized by state law, as in RCW 9.41.300, and are consistent with this chapter. Such local ordinances shall have the same ~~(or lesser)~~ penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality.

**Sec. 429.** RCW 9.41.300 and 1993 c 396 s 1 are each amended to read as follows:

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) ~~((charged with being or adjudicated to be a juvenile offender as defined in RCW 13.40.020, (iii)))~~ held for extradition or as a material witness, or ~~((iv))~~ (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for ~~((short firearms))~~ pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public; or

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age.

(2) ~~((Notwithstanding RCW 9.41.290,))~~ Cities, towns, counties, and other municipalities may enact laws and ordinances:

(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any ~~((firearm))~~ pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

~~((4))~~ (6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel; or

(c) Security personnel while engaged in official duties.

~~((5))~~ (7) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

~~((6))~~ (8) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

~~((7))~~ (9) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

~~((8))~~ (10) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

~~((9))~~ (11) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

**NEW SECTION. Sec. 430.** A new section is added to chapter 9.41 RCW 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 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 serious offense, 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 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 serious offense, 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 or to the restrained or enjoined party's counsel or to any person designated by the court.

***\*NEW SECTION. Sec. 431. A new section is added to chapter 9A.41 RCW to read as follows:***

*A local governmental entity as defined by RCW 4.96.010(2) may close a firearm range training and practice facility only if the local governmental entity replaces the closed facility with another firearm range training and practice facility of at least equal capacity. A local governmental entity may close more than one firearm range training and practice facility and replace the closed facilities with a single firearm range training and practice facility, if the capacity of the replacement facility is at least as large as the combined capacities of the closed facilities.*

*A replacement firearm range training and practice facility must be open for use within thirty days of the closure of the replaced facility or facilities. Further, a replacement firearm range training and practice facility must be available for use by law enforcement personnel or the general public to the same extent as the replaced facility or facilities.*

*\*Sec. 431 was vetoed, see message at end of chapter.*

***NEW SECTION. Sec. 432. A new section is added to chapter 9A.56 RCW to read as follows:***

- (1) A person is guilty of theft of a firearm if the person:
  - (a) Commits a theft of a firearm; or
  - (b) Possesses, sells, or delivers a stolen firearm.
- (2) This section applies regardless of the stolen firearm's value.
- (3) "Possession, sale, or delivery of a stolen firearm" as used in this section has the same meaning as "possessing stolen property" in RCW 9A.56.140.
- (4) Theft of a firearm is a class C felony.

***Sec. 433. RCW 9A.56.040 and 1987 c 140 s 2 are each amended to read as follows:***

(1) A person is guilty of theft in the second degree if he or she commits theft of:

(a) Property or services which exceed(s) two hundred and fifty dollars in value, but does not exceed one thousand five hundred dollars in value; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) An access device; or

(d) A motor vehicle, of a value less than one thousand five hundred dollars(~~(~~or~~~~

~~(e) A firearm, of a value less than one thousand five hundred dollars)).~~

(2) Theft in the second degree is a class C felony.

**Sec. 434.** RCW 9A.56.160 and 1987 c 140 s 4 are each amended to read as follows:

(1) A person is guilty of possessing stolen property in the second degree if:

(a) He or she possesses stolen property which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He or she possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He or she possesses a stolen access device; or

(d) He or she possesses a stolen motor vehicle of a value less than one thousand five hundred dollars(~~(~~or~~~~

~~(e) He possesses a stolen firearm)).~~

(2) Possessing stolen property in the second degree is a class C felony.

**Sec. 435.** RCW 13.40.265 and 1989 c 271 s 116 are each amended to read as follows:

(1)(a) If a juvenile thirteen years of age or older is found by juvenile court to have committed an offense while armed with a firearm or an offense that is a violation of RCW 9.41.040(1)(e) or chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court shall notify the department of licensing within twenty-four hours after entry of the judgment.

(b) Except as otherwise provided in (c) of this subsection, upon petition of a juvenile who has been found by the court to have committed an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the court may at any time the court deems appropriate notify the department of licensing that the juvenile's driving privileges should be reinstated.

(c) If the offense is the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until ninety days after the date the juvenile turns sixteen or ninety days after the judgment was entered, whichever is later. If the offense is the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the juvenile may not petition the court for reinstatement of the juvenile's privilege to drive revoked pursuant to RCW 46.20.265 until the date the juvenile turns seventeen or one year after the date judgment was entered, whichever is later.

(2)(a) If a juvenile enters into a diversion agreement with a diversion unit pursuant to RCW 13.40.080 concerning an offense that is a violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the diversion unit shall notify the department of licensing within twenty-four hours after the diversion agreement is signed.

(b) If a diversion unit has notified the department pursuant to (a) of this subsection, the diversion unit shall notify the department of licensing when the juvenile has completed the agreement.

**Sec. 436.** RCW 13.64.060 and 1993 c 294 s 6 are each amended to read as follows:

(1) An emancipated minor shall be considered to have the power and capacity of an adult, except as provided in subsection (2) of this section. A minor shall be considered emancipated for the purposes of, but not limited to:

(a) The termination of parental obligations of financial support, care, supervision, and any other obligation the parent may have by virtue of the parent-child relationship, including obligations imposed because of marital dissolution;

(b) The right to sue or be sued in his or her own name;

(c) The right to retain his or her own earnings;

(d) The right to establish a separate residence or domicile;

(e) The right to enter into nonvoidable contracts;

(f) The right to act autonomously, and with the power and capacity of an adult, in all business relationships, including but not limited to property transactions;

(g) The right to work, and earn a living, subject only to the health and safety regulations designed to protect those under age of majority regardless of their legal status; and

(h) The right to give informed consent for receiving health care services.

(2) An emancipated minor shall not be considered an adult for: (a) The purposes of the adult criminal laws of the state unless the decline of jurisdiction procedures contained in RCW 13.40.110 are used or the minor is tried in criminal court pursuant to RCW 13.04.030(1)(e)(iv); (b) the criminal laws of the state when the emancipated minor is a victim and the age of the victim is an element of the offense; or (c) those specific constitutional and statutory age requirements regarding voting, use of alcoholic beverages, possession of firearms, and other health and safety regulations relevant to the minor because of the minor's age.

**Sec. 437.** RCW 26.28.080 and 1987 c 250 s 2 and 1987 c 204 s 1 are each reenacted and amended to read as follows:

Every person who(:

~~(1) Shall admit to or allow to remain in any concert saloon, or in any place owned, kept, or managed by him or her where intoxicating liquors are sold, given away or disposed of—except a restaurant or dining room, any person under the age of eighteen years; or,~~

~~(2) Shall admit to, or allow to remain in any public pool or billiard hall, or in any place of entertainment injurious to health or morals, owned, kept or managed by him or her, any person under the age of eighteen years; or,~~



~~(3) Shall suffer or permit any such person to play any game of skill or chance, in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignment, or in any place where opium or any preparation thereof, is smoked, or where any narcotic drug is used, any persons under the age of eighteen years; or,~~

~~(4) Shall)) sells or gives, or permits to be sold or given to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form((; or~~

~~(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;~~

~~Shall be)) is guilty of a gross misdemeanor.~~

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another.

*\*Sec. 438. RCW 42.17.318 and 1988 c 219 s 2 are each amended to read as follows:*

~~*((The license applications under RCW 9.41.070 are exempt from the disclosure requirements of this chapter. Copies of license applications or information on the applications may be released to law enforcement or corrections agencies.))*~~

*(1) Except as provided in subsection (3) of this section, the license applications under RCW 9.41.070, alien firearm license applications under RCW 9.41.170, purchase applications under RCW 9.41.090, and records of pistol sales under RCW 9.41.110 shall not be disclosed.*

*(2) Except as provided in subsection (3) of this section, information concerning mental health information received by: (a) The department of licensing, under section 404 of this act or RCW 9.41.170; (b) an authority that issues concealed pistol licenses, under section 404 of this act or RCW 9.41.070; (c) a law enforcement agency, under RCW 9.41.090 or 9.41.170; or (d) a court or law enforcement agency under RCW 9.41.097, shall not be disclosed.*

*(3)(a) Copies or records of applications for concealed pistol licenses, alien firearm licenses, or to purchase pistols, copies or records of pistol sales, and information on the applications or records may be released to law enforcement or corrections agencies or to the person who is the subject of the information. Information concerning mental health information may be released to law enforcement or corrections agencies. The person who is the subject of mental health information may seek disclosure of the information from the health care provider pursuant to chapter 70.02 RCW.*

*(b) Personally identifying information from applications for concealed pistol licenses, applications for alien firearm licenses, applications to purchase pistols, and records of pistol transfers, such as names, addresses (other than zip codes), and social security numbers, shall not be disclosed except as provided in (a) of this subsection. Information other than personally*

**identifying information, concerning applications for concealed pistol licenses or to purchase pistols, or concerning records of pistol sales, may be disclosed to any person upon request.**

\*Sec. 438 was vetoed, see message at end of chapter.

**Sec. 439.** RCW 46.20.265 and 1991 c 260 s 1 are each amended to read as follows:

(1) In addition to any other authority to revoke driving privileges under this chapter, the department shall revoke all driving privileges of a juvenile when the department receives notice from a court pursuant to RCW 9.41.040(5), 13.40.265, 66.44.365, 69.41.065, 69.50.420, 69.52.070, or a substantially similar municipal ordinance adopted by a local legislative authority, or from a diversion unit pursuant to RCW 13.40.265. The revocation shall be imposed without hearing.

(2) The driving privileges of the juvenile revoked under subsection (1) of this section shall be revoked in the following manner:

(a) Upon receipt of the first notice, the department shall impose a revocation for one year, or until the juvenile reaches seventeen years of age, whichever is longer.

(b) Upon receipt of a second or subsequent notice, the department shall impose a revocation for two years or until the juvenile reaches eighteen years of age, whichever is longer.

(c) Each offense for which the department receives notice shall result in a separate period of revocation. All periods of revocation imposed under this section that could otherwise overlap shall run consecutively and no period of revocation imposed under this section shall begin before the expiration of all other periods of revocation imposed under this section or other law.

(3) If the department receives notice from a court that the juvenile's privilege to drive should be reinstated, the department shall immediately reinstate any driving privileges that have been revoked under this section.

(4)(a) If the department receives notice pursuant to RCW 13.40.265(2)(b) from a diversion unit that a juvenile has completed a diversion agreement for which the juvenile's driving privileges were revoked, the department shall reinstate any driving privileges revoked under this section as provided in (b) of this subsection.

(b) If the diversion agreement was for the juvenile's first violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of ninety days after the date the juvenile turns sixteen or ninety days after the juvenile entered into a diversion agreement for the offense. If the diversion agreement was for the juvenile's second or subsequent violation of chapter 66.44, 69.41, 69.50, or 69.52 RCW, the department shall not reinstate the juvenile's privilege to drive until the later of the date the juvenile turns seventeen or one year after the juvenile entered into the second or subsequent diversion agreement.

**Sec. 440.** RCW 71.05.450 and 1973 1st ex.s. c 142 s 50 are each amended to read as follows:

Competency shall not be determined or withdrawn by operation of, or under the provisions of this chapter. Except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license, no person shall be presumed incompetent or lose any civil rights as a consequence of receiving evaluation or treatment for mental disorder, either voluntarily or involuntarily, or certification or commitment pursuant to this chapter or any prior laws of this state dealing with mental illness. Any person who leaves a public or private agency following evaluation or treatment for mental disorder shall be given a written statement setting forth the substance of this section.

**Sec. 441.** RCW 71.12.560 and 1974 ex.s. c 145 s 1 are each amended to read as follows:

The person in charge of any private institution, hospital, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally ill or deranged may receive therein as a voluntary patient any person suffering from mental illness or derangement who is a suitable person for care and treatment in the institution, hospital, or sanitarium, who voluntarily makes a written application to the person in charge for admission into the institution, hospital or sanitarium. ~~((After six months of continuous inpatient treatment as a voluntary))~~ At the expiration of fourteen continuous days of treatment of a patient voluntarily committed in a private institution, hospital, or sanitarium, if the period of voluntary commitment is to continue, the person in charge shall forward to the office of the department of social and health services a record of the voluntary patient showing the name, residence, ~~((age))~~ date of birth, sex, place of birth, occupation, social security number, marital status, date of admission to the institution, hospital, or sanitarium, and such other information as may be required by rule of the department of social and health services.

**Sec. 442.** RCW 72.23.080 and 1959 c 28 s 72.23.080 are each amended to read as follows:

Any person received and detained in a state hospital ~~((pursuant to RCW 72.23.070 shall be))~~ under chapter 71.34 RCW is deemed a voluntary patient and, except as chapter 9.41 RCW may limit the right of a person to purchase or possess a firearm or to qualify for a concealed pistol license, shall not suffer a loss of legal competency by reason of his or her application and admission. Upon the admission of a voluntary patient to a state hospital the superintendent shall immediately forward to the department the record of such patient showing the name, address, sex, ~~((age))~~ date of birth, place of birth, occupation, social security number, date of admission, name of nearest relative, and such other information as the department may from time to time require.

**Sec. 443.** RCW 77.12.720 and 1990 c 195 s 2 are each amended to read as follows:

The firearms range account is hereby created in the state general fund. ~~((Any funds remaining in the firearm range account established by RCW 77.12.195, at the time of its repeal by section 7, chapter 195, Laws of 1990, shall be transferred to the firearms range account established in this section.))~~ Moneys in the account shall be subject to legislative appropriation and shall be used for purchase and development of land, construction or improvement of range facilities, including fixed structure construction or remodeling, equipment purchase, safety or environmental improvements, noise abatement, and liability protection for public and nonprofit firearm range training and practice facilities.

Grant funds shall not be used for expendable shooting supplies, or normal operating expenses. Grant funds shall not supplant funds for other organization programs.

The funds will be available to nonprofit shooting organizations, school districts, and state, county, or local governments on a match basis. All ~~((ranges))~~ entities receiving matching funds must be open on a regular basis and usable by law enforcement personnel or the general public who possess Washington concealed ~~((carry permits))~~ pistol licenses or Washington hunting licenses or who are enrolled in a firearm safety class.

Applicants for a grant from the firearms range account shall provide matching funds in either cash or in-kind contributions. The match must represent one dollar in value for each one dollar of the grant. In-kind contributions include but are not limited to labor, materials, and new property. Existing assets and existing development may not apply to the match.

Applicants other than school districts or local or state government must be registered as a nonprofit or not-for-profit organization with the Washington secretary of state and the United States internal revenue service. The organization's articles of incorporation must contain provisions for the organization's structure, officers, legal address, and registered agent.

Organizations requesting grants must provide the hours of range availability for public and law enforcement use. The fee structure will be submitted with the grant application.

Any nonprofit organization or agency accepting a grant under this program will be required to pay back the entire grant amount to the firearms range account if the use of the range facility is discontinued less than ten years after the grant is accepted.

~~((Facilities))~~ Entities receiving grants must ~~((be))~~ make the facilities for which grant funding is received open for hunter safety education classes and firearm safety classes on a regular basis for no fee.

Government units or school districts applying for grants must open their range facility on a regular basis for hunter safety education ~~((training))~~ classes and firearm safety classes.

The interagency committee for outdoor recreation shall adopt rules to implement ~~((this act))~~ chapter 195, Laws of 1990, pursuant to chapter 34.05 RCW.

**Sec. 444.** RCW 77.16.290 and 1980 c 78 s 95 are each amended to read as follows:

~~((While on duty within their respective jurisdictions,))~~ Law enforcement officers authorized to carry firearms are exempt from RCW 77.16.250 and 77.16.260.

**Sec. 445.** RCW 82.04.300 and 1993 sp.s. c 25 s 205 are each amended to read as follows:

This chapter shall apply to any person engaging in any business activity taxable under RCW 82.04.230, 82.04.240, 82.04.250, 82.04.255, 82.04.260, 82.04.270, 82.04.280, and 82.04.290 other than those whose value of products, gross proceeds of sales, or gross income of the business is less than one thousand dollars per month: PROVIDED, That where one person engages in more than one business activity and the combined measures of the tax applicable to such businesses equal or exceed one thousand dollars per month, no exemption or deduction from the amount of tax is allowed by this section.

A person who is a dealer as defined by RCW 9.41.010 is required to file returns even though no tax may be due. Any other person claiming exemption under the provisions of this section may be required, according to rules adopted by the department, to file returns even though no tax may be due. The department of revenue may allow exemptions, by general rule or regulation, in those instances in which quarterly, semiannual, or annual returns are permitted. Exemptions for such periods shall be equivalent in amount to the total of exemptions for each month of a reporting period.

**Sec. 446.** RCW 82.32.030 and 1992 c 206 s 8 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, if any person engages in any business or performs any act upon which a tax is imposed by the preceding chapters, he or she shall, under such rules as the department of revenue shall prescribe, apply for and obtain from the department a registration certificate upon payment of fifteen dollars. Such registration certificate shall be personal and nontransferable and shall be valid as long as the taxpayer continues in business and pays the tax accrued to the state. In case business is transacted at two or more separate places by one taxpayer, a separate registration certificate for each place at which business is transacted with the public shall be required, but, for such additional certificates no additional payment shall be required. Each certificate shall be numbered and shall show the name, residence, and place and character of business of the taxpayer and such other information as the department of revenue deems necessary and shall be posted in a conspicuous place at the place of business for which it is issued. Where a place of business of the taxpayer is changed, the taxpayer must return to the department the

existing certificate, and a new certificate will be issued for the new place of business free of charge. No person required to be registered under this section shall engage in any business taxable hereunder without first being so registered. The department, by rule, may provide for the issuance of certificates of registration, without requiring payment, to temporary places of business or to persons who are exempt from tax under RCW 82.04.300.

(2) Unless the person is a dealer as defined in RCW 9.41.010, registration under this section is not required if the following conditions are met:

(a) A person's value of products, gross proceeds of sales, or gross income of the business is below the tax reporting threshold provided in RCW 82.04.300;

(b) The person is not required to collect or pay to the department of revenue any other tax which the department is authorized to collect; and

(c) The person is not otherwise required to obtain a license subject to the master application procedure provided in chapter 19.02 RCW.

**Sec. 447.** RCW 9A.46.050 and 1985 c 288 s 5 are each amended to read as follows:

A defendant who is charged by citation, complaint, or information with an offense involving harassment and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information. At that appearance, the court shall determine the necessity of imposing a no-contact or no-harassment order, and consider the provisions of section 430 of this act, or other conditions of pretrial release according to the procedures established by court rule for preliminary appearance or an arraignment.

**Sec. 448.** RCW 10.14.080 and 1992 c 143 s 11 are each amended to read as follows:

(1) Upon filing a petition for a civil antiharassment protection order under this chapter, the petitioner may obtain an ex parte temporary antiharassment protection order. An ex parte temporary antiharassment protection order may be granted with or without notice upon the filing of an affidavit which, to the satisfaction of the court, shows reasonable proof of unlawful harassment of the petitioner by the respondent and that great or irreparable harm will result to the petitioner if the temporary antiharassment protection order is not granted.

(2) An ex parte temporary antiharassment protection order shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 10.14.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 10.14.070 and 10.14.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

(3) At the hearing, if the court finds by a preponderance of the evidence that unlawful harassment exists, a civil antiharassment protection order shall issue prohibiting such unlawful harassment.

(4) An order issued under this chapter shall be effective for not more than one year unless the court finds that the respondent is likely to resume unlawful harassment of the petitioner when the order expires. If so, the court may enter an order for a fixed time exceeding one year or may enter a permanent antiharassment protection order. The court shall not enter an order that is effective for more than one year if the order restrains the respondent from contacting the respondent's minor children. If the petitioner seeks relief for a period longer than one year on behalf of the respondent's minor children, the court shall advise the petitioner that the petitioner may apply for renewal of the order as provided in this chapter or if appropriate may seek relief pursuant to chapter 26.09 or 26.10 RCW.

(5) At any time within the three months before the expiration of the order, the petitioner may apply for a renewal of the order by filing a petition for renewal. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal, the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 10.14.085, personal service shall be made upon the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided by RCW 10.14.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in this section. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume harassment of the petitioner when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in subsection (4) of this section.

(6) The court, in granting an ex parte temporary antiharassment protection order or a civil antiharassment protection order, shall have broad discretion to grant such relief as the court deems proper, including an order:

(a) Restraining the respondent from making any attempts to contact the petitioner;

(b) Restraining the respondent from making any attempts to keep the petitioner under surveillance; ~~((and))~~

(c) Requiring the respondent to stay a stated distance from the petitioner's residence and workplace; and

(d) Considering the provisions of section 430 of this act.

(7) A petitioner may not obtain an ex parte temporary antiharassment protection order against a respondent if the petitioner has previously obtained two

such ex parte orders against the same respondent but has failed to obtain the issuance of a civil antiharassment protection order unless good cause for such failure can be shown.

(8) The court order shall specify the date an order issued pursuant to subsections (4) and (5) of this section expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

**Sec. 449.** RCW 10.99.040 and 1992 c 86 s 2 are each amended to read as follows:

(1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon a showing that there is a possibility of further violence: PROVIDED, That the court may order a criminal defense attorney not to disclose to his or her client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any person charged with or arrested for a crime involving domestic violence is released from custody before arraignment or trial on bail or personal recognizance, the court authorizing the release may prohibit that person from having any contact with the victim. The jurisdiction authorizing the release shall determine whether that person should be prohibited from having any contact with the victim. If there is no outstanding restraining or protective order prohibiting that person from having contact with the victim, the court authorizing release may issue, by telephone, a no-contact order prohibiting the person charged or arrested from having contact with the victim. In issuing the order, the court shall consider the provisions of section 430 of this act. The no-contact order shall also be issued in writing as soon as possible. ~~((If the court has probable cause to believe that the person charged or arrested is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, the court may also require that person to surrender any deadly weapon in that person's immediate possession or control, or subject to that person's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which that person resides or to the defendant's counsel for safekeeping.))~~

(3) At the time of arraignment the court shall determine whether a no-contact order shall be issued or extended. If a no-contact order is issued or



extended, the court may also include in the conditions of release a requirement that the defendant submit to electronic monitoring. If electronic monitoring is ordered, the court shall specify who shall provide the monitoring services, and the terms under which the monitoring shall be performed. Upon conviction, the court may require as a condition of the sentence that the defendant reimburse the providing agency for the costs of the electronic monitoring.

(4)(a) Willful violation of a court order issued under subsection (2) or (3) of this section is a misdemeanor. Upon conviction and in addition to other penalties provided by law, the court may require that the defendant submit to electronic monitoring. The court shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The court also may include a requirement that the defendant pay the costs of the monitoring. The court shall consider the ability of the convicted person to pay for electronic monitoring.

(b) Any assault that is a violation of an order issued under this section and that does not amount to assault in the first or second degree under RCW 9A.36.011 or 9A.36.021 is a class C felony punishable under chapter 9A.20 RCW, and any conduct in violation of a protective order issued under this section that is reckless and creates a substantial risk of death or serious physical injury to another person is a class C felony punishable under chapter 9A.20 RCW.

(c) The written order releasing the person charged or arrested shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 10.99 RCW and will subject a violator to arrest; any assault or reckless endangerment that is a violation of this order is a felony. A certified copy of the order shall be provided to the victim. If a no-contact order has been issued prior to charging, that order shall expire at arraignment or within seventy-two hours if charges are not filed. Such orders need not be entered into the computer information system in this state which is used by law enforcement agencies to list outstanding warrants.

(5) Whenever an order prohibiting contact is issued, modified, or terminated under subsection (2) or (3) of this section, the clerk of the court shall forward a copy of the order on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order the law enforcement agency shall forthwith enter the order for one year or until the expiration date specified on the order into any computer information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any jurisdiction in the state.

**Sec. 450.** RCW 10.99.045 and 1984 c 263 s 23 are each amended to read as follows:

(1) A defendant arrested for an offense involving domestic violence as defined by RCW 10.99.020(2) shall be required to appear in person before a magistrate within one judicial day after the arrest.

(2) A defendant who is charged by citation, complaint, or information with an offense involving domestic violence as defined by RCW 10.99.020(2) and not arrested shall appear in court for arraignment in person as soon as practicable, but in no event later than fourteen days after the next day on which court is in session following the issuance of the citation or the filing of the complaint or information.

(3) At the time of the appearances provided in subsection (1) or (2) of this section, the court shall determine the necessity of imposing a no contact order or other conditions of pretrial release according to the procedures established by court rule for a preliminary appearance or an arraignment. ~~((If the court has probable cause to believe that the defendant is likely to use or display or threaten to use a deadly weapon as defined in RCW 9A.04.110 in any further acts of violence, as one of the conditions of pretrial release, the court may require the defendant to surrender any deadly weapon in the defendant's immediate possession or control, or subject to the defendant's immediate possession or control, to the sheriff of the county or chief of police of the municipality in which the defendant resides or to the defendant's counsel for safekeeping. The decision of the judge and findings of fact in support thereof shall be in writing.))~~ The court may include in the order any conditions authorized under section 430 of this act.

(4) Appearances required pursuant to this section are mandatory and cannot be waived.

(5) The no-contact order shall be issued and entered with the appropriate law enforcement agency pursuant to the procedures outlined in RCW 10.99.040 (2) and (4).

**Sec. 451.** RCW 26.09.050 and 1989 c 375 s 29 are each amended to read as follows:

In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall determine the marital status of the parties, make provision for a parenting plan for any minor child of the marriage, make provision for the support of any child of the marriage entitled to support, consider or approve provision for the maintenance of either spouse, make provision for the disposition of property and liabilities of the parties, make provision for the allocation of the children as federal tax exemptions, make provision for any necessary continuing restraining orders including the provisions contained in section 430 of this act, and make provision for the change of name of any party.

**Sec. 452.** RCW 26.09.060 and 1992 c 229 s 9 are each amended to read as follows:

(1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity;

or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him or her to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) ~~Molesting or disturbing the peace of the other party or of any child ((and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed));~~

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) In issuing the order, the court shall consider the provisions of section 430 of this act.

(4) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

~~((4))~~ (5) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances. The court may in its discretion waive the filing of the bond or the posting of security.

~~((5))~~ (6) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF

ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

~~((6))~~ (7) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

~~((7))~~ (8) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered, except as provided under subsection ~~((8))~~ (9) of this section, or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed;

(d) May be entered in a proceeding for the modification of an existing decree.

~~((8))~~ (9) Delinquent support payments accrued under an order for temporary support remain collectible and are not extinguished when a final decree is entered unless the decree contains specific language to the contrary. A support debt under a temporary order owed to the state for public assistance expenditures shall not be extinguished by the final decree if:

(a) The obligor was given notice of the state's interest under chapter 74.20A RCW; or

(b) The temporary order directs the obligor to make support payments to the office of support enforcement or the Washington state support registry.

**Sec. 453.** RCW 26.10.040 and 1989 c 375 s 31 are each amended to read as follows:

In entering an order under this chapter, the court shall consider, approve, or make provision for:

(1) Child custody, visitation, and the support of any child entitled to support;

(2) The allocation of the children as a federal tax exemption; and

(3) Any necessary continuing restraining orders, including the provisions contained in section 430 of this act.

**Sec. 454.** RCW 26.10.115 and 1989 c 375 s 32 are each amended to read as follows:

(1) In a proceeding under this chapter either party may file a motion for temporary support of children entitled to support. The motion shall be

accompanied by an affidavit setting forth the factual basis for the motion and the amount requested.

(2) In a proceeding under this chapter either party may file a motion for a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) ~~Molesting or disturbing the peace of the other party or of any child ((and, upon a showing by clear and convincing evidence that the party so restrained or enjoined has used or displayed or threatened to use a deadly weapon as defined in RCW 9A.04.110 in an act of violence or has previously committed acts of domestic violence and is likely to use or display or threaten to use a deadly weapon in an act of domestic violence, requiring the party to surrender any deadly weapon in his immediate possession or control or subject to his immediate possession or control to the sheriff of the county having jurisdiction of the proceeding or to the restrained or enjoined party's counsel or to any person designated by the court. The court may order temporary surrender of deadly weapons without notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for response has elapsed));~~

(b) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(c) Removing a child from the jurisdiction of the court.

(3) In issuing the order, the court shall consider the provisions of section 430 of this act.

(4) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

~~((4))~~ (5) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances.

~~((5))~~ (6) Restraining orders issued under this section restraining the person from molesting or disturbing another party or from entering a party's home shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A CRIMINAL OFFENSE UNDER CHAPTER 26.10 RCW AND WILL SUBJECT A VIOLATOR TO ARREST.

~~((6))~~ (7) The court may order that any temporary restraining order granted under this section be forwarded by the clerk of the court on or before the next judicial day to the appropriate law enforcement agency specified in the order. Upon receipt of the order, the law enforcement agency shall forthwith enter the order for one year into any computer-based criminal intelligence information system available in this state used by law enforcement agencies to list outstanding warrants. Entry into the law enforcement information system constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in the state.

~~((7))~~ (8) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final order is entered or when the motion is dismissed;

(d) May be entered in a proceeding for the modification of an existing order.

~~((8))~~ (9) 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.

**Sec. 455.** RCW 26.26.130 and 1989 c 375 s 23 and 1989 c 360 s 18 are each reenacted and amended to read as follows:

(1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship shall be determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order shall contain other appropriate provisions directed to the appropriate parties to the proceeding, concerning the duty of current and future support, the extent of any liability for past support furnished to the child if that issue is before the court, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement. The judgment and order may include a continuing restraining order or injunction. In issuing the order, the court shall consider the provisions of section 430 of this act.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just. The court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) After considering all relevant factors, the court shall order either or both parents to pay an amount determined pursuant to the schedule and standards ~~((adopted under RCW 26.19.040))~~ contained in chapter 26.19 RCW.

(6) On the same basis as provided in chapter 26.09 RCW, the court shall make residential provisions with regard to minor children of the parties, except that a parenting plan shall not be required unless requested by a party.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody.

**Sec. 456.** RCW 26.26.137 and 1983 1st ex.s. c 41 s 12 are each amended to read as follows:

(1) If the court has made a finding as to the paternity of a child, or if a party's acknowledgment of paternity has been filed with the court, or a party alleges he is the father of the child, any party may move for temporary support for the child prior to the date of entry of the final order. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) 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) Entering the home of another party; or
- (c) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary support in such amounts and on such terms as are just and proper in the circumstances. In issuing the order, the court shall consider the provisions of section 430 of this act.

(5) 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 not be entered in a proceeding for the modification of an existing order.

(6) 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.

**Sec. 457.** RCW 26.50.060 and 1992 c 143 s 2, 1992 c 111 s 4, and 1992 c 86 s 4 are each reenacted and amended to read as follows:

(1) Upon notice and after hearing, the court may provide relief as follows:

(a) Restrain the respondent from committing acts of domestic violence;

(b) Exclude the respondent from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However, parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter;

(d) Order the respondent to participate in batterers' treatment;

(e) Order other relief as it deems necessary for the protection of the petitioner and other family or household members sought to be protected, including orders or directives to a peace officer, as allowed under this chapter;

(f) Require the respondent to pay the filing fee and court costs, including service fees, and to reimburse the petitioner for costs incurred in bringing the action, including a reasonable attorney's fee. If the petitioner has been granted leave to proceed in forma pauperis, the court may require the respondent to pay the filing fee and costs, including services fees, to the county or municipality incurring the expense;

(g) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; ~~((and))~~

(h) Require the respondent to submit to electronic monitoring. The order shall specify who shall provide the electronic monitoring services and the terms under which the monitoring must be performed. The order also may include a requirement that the respondent pay the costs of the monitoring. The court shall consider the ability of the respondent to pay for electronic monitoring; and

(i) Consider the provisions of section 430 of this act.



(2) Any relief granted by the order for protection, other than a judgment for costs, shall be for a fixed period not to exceed one year if the restraining order restrains the respondent from contacting the respondent's minor children. If the petitioner has petitioned for relief on his or her own behalf or on behalf of the petitioner's family or household members or minor children that are not also the respondent's minor children, and the court finds that the respondent is likely to resume acts of domestic violence against the petitioner or the petitioner's family or household members or minor children when the order expires, the court may either (a) grant relief for a fixed period not to exceed one year; (b) grant relief for a fixed period in excess of one year; or (c) enter a permanent order of protection.

If the petitioner has petitioned for relief on behalf of the respondent's minor children, the court shall advise the petitioner that if the petitioner wants to continue protection for a period beyond one year the petitioner may either petition for renewal pursuant to the provisions of this chapter or may seek relief pursuant to the provisions of chapter 26.09 RCW.

(3) If the court grants an order for a fixed time period, the petitioner may apply for renewal of the order by filing a petition for renewal at any time within the three months before the order expires. The petition for renewal shall state the reasons why the petitioner seeks to renew the protection order. Upon receipt of the petition for renewal the court shall order a hearing which shall be not later than fourteen days from the date of the order. Except as provided in RCW 26.50.085, personal service shall be made on the respondent not less than five days before the hearing. If timely service cannot be made the court shall set a new hearing date and shall either require additional attempts at obtaining personal service or permit service by publication as provided in RCW 26.50.085. If the court permits service by publication, the court shall set the new hearing date not later than twenty-four days from the date of the order. If the order expires because timely service cannot be made the court shall grant an ex parte order of protection as provided in RCW 26.50.070. The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section. The court may award court costs, service fees, and reasonable attorneys' fees as provided in subsection (1)(f) of this section.

(4) In providing relief under this chapter, the court may realign the designation of the parties as "petitioner" and "respondent" where the court finds that the original petitioner is the abuser and the original respondent is the victim of domestic violence and may issue an ex parte temporary order for protection in accordance with RCW 26.50.070 on behalf of the victim until the victim is able to prepare a petition for an order for protection in accordance with RCW 26.50.030.

(5) Except as provided in subsection (4) of this section, no order for protection shall grant relief to any party except upon notice to the respondent and hearing pursuant to a petition or counter-petition filed and served by the party seeking relief in accordance with RCW 26.50.050.

(6) The court order shall specify the date the order expires if any. The court order shall also state whether the court issued the protection order following personal service or service by publication and whether the court has approved service by publication of an order issued under this section.

**Sec. 458.** RCW 26.50.070 and 1992 c 143 s 3 are each amended to read as follows:

(1) Where an application under this section alleges that irreparable injury could result from domestic violence if an order is not issued immediately without prior notice to the respondent, the court may grant an ex parte temporary order for protection, pending a full hearing, and grant relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic violence;

(b) Excluding any party from the dwelling shared or from the residence of the other until further order of the court;

(c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court;  
~~((and))~~

(d) Restraining any party from having any contact with the victim of domestic violence or the victim's children or members of the victim's household; and

(e) Considering the provisions of section 430 of this act.

(2) Irreparable injury under this section includes but is not limited to situations in which the respondent has recently threatened petitioner with bodily injury or has engaged in acts of domestic violence against the petitioner.

(3) The court shall hold an ex parte hearing in person or by telephone on the day the petition is filed or on the following judicial day.

(4) An ex parte temporary order for protection shall be effective for a fixed period not to exceed fourteen days or twenty-four days if the court has permitted service by publication under RCW 26.50.085. The ex parte order may be reissued. A full hearing, as provided in this chapter, shall be set for not later than fourteen days from the issuance of the temporary order or not later than twenty-four days if service by publication is permitted. Except as provided in RCW 26.50.050 and 26.50.085, the respondent shall be personally served with a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

**NEW SECTION.** Sec. 459. (1) RCW 19.70.010 and 19.70.020 are each recodified as sections in chapter 9.41 RCW.

(2) RCW 9.41.160 is recodified in chapter 9.41 RCW to follow RCW 9.41.310.

**NEW SECTION.** Sec. 460. The following acts or parts of acts are each repealed:

- (1) RCW 9.41.030 and 1935 c 172 s 3;
- (2) RCW 9.41.093 and 1969 ex.s. c 227 s 2;
- (3) RCW 9.41.095 and 1969 ex.s. c 227 s 3;
- (4) RCW 9.41.130 and 1935 c 172 s 13;
- (5) RCW 9.41.150 and 1989 c 132 s 1, 1961 c 124 s 11, & 1935 c 172 s 15;
- (6) RCW 9.41.180 and 1992 c 7 s 8 & 1909 c 249 s 266;
- (7) RCW 9.41.200 and 1982 c 231 s 2 & 1933 c 64 s 2; and
- (8) RCW 9.41.210 and 1933 c 64 s 3.

#### PART V. PUBLIC SAFETY

**NEW SECTION.** Sec. 501. A new section is added to chapter 74.13 RCW to read as follows:

The department of social and health services shall maintain a toll-free hotline to assist parents of runaway children. The hotline shall provide parents with a complete description of their rights when dealing with their runaway child.

**NEW SECTION.** Sec. 502. A new section is added to chapter 35.21 RCW to read as follows:

(1) Any city or town has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

**NEW SECTION.** Sec. 503. A new section is added to chapter 35A.11 RCW to read as follows:

(1) Any code city has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

**NEW SECTION.** Sec. 504. A new section is added to chapter 36.32 RCW to read as follows:

(1) The legislative authority of any county has the authority to enact an ordinance, for the purpose of preserving the public safety or reducing acts of violence by or against juveniles that are occurring at such rates as to be beyond the capacity of the police to assure public safety, establishing times and

conditions under which juveniles may be present on the public streets, in the public parks, or in any other public place during specified hours.

(2) The ordinance shall not contain any criminal sanctions for a violation of the ordinance.

**Sec. 505.** RCW 13.32A.050 and 1990 c 276 s 5 are each amended to read as follows:

A law enforcement officer shall take a child into custody:

(1) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(2) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(3) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(4) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued pursuant to chapter 13.32A RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter.

Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination.

An officer who takes a child into custody under this section and places the child in a designated crisis residential center shall inform the department of such placement within twenty-four hours.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored under RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 13.32A.060.

**Sec. 506.** RCW 13.32A.060 and 1985 c 257 s 8 are each amended to read as follows:

(1) An officer taking a child into custody under RCW 13.32A.050 (1) or (2) shall inform the child of the reason for such custody and shall either:

(a) Transport the child to his or her home. The officer releasing a child into the custody of the parent shall inform the parent of the reason for the taking of the child into custody and shall inform the child and the parent of the nature and location of appropriate services available in their community; or

(b) Take the child to the home of an adult extended family member, a designated crisis residential center, or the home of a responsible adult after attempting to notify the parent or legal guardian:

(i) If the child (~~(evidences)~~) expresses fear or distress at the prospect of being returned to his or her home(~~(+or~~

~~(ii) If the officer believes)~~ which leads the officer to believe there is a possibility that the child is experiencing in the home some type of child abuse or neglect, as defined in RCW 26.44.020, as now law or hereafter amended; or

~~((iii))~~ (ii) If it is not practical to transport the child to his or her home; or

~~((iv))~~ (iii) If there is no parent available to accept custody of the child.

The officer releasing a child into the custody of an extended family member or a responsible adult shall inform the child and the extended family member or responsible adult of the nature and location of appropriate services available in the community.

(2) An officer taking a child into custody under RCW 13.32A.050 (3) or (4) shall inform the child of the reason for custody, and shall take the child to a designated crisis residential center licensed by the department and established pursuant to chapter 74.13 RCW. However, an officer taking a child into custody under RCW 13.32A.050(4) may place the child in a juvenile detention facility as provided in RCW 13.32A.065. The department shall ensure that all the enforcement authorities are informed on a regular basis as to the location of the designated crisis residential center or centers in their judicial district, where children taken into custody under RCW 13.32A.050 may be taken.

(3) "Extended family members" means a grandparent, brother, sister, stepbrother, stepsister, uncle, aunt, or first cousin with whom the child has a relationship and is comfortable, and who is willing and available to care for the child.

**Sec. 507.** RCW 13.32A.080 and 1981 c 298 s 6 are each amended to read as follows:

(1)(a) A person commits the crime of unlawful harboring of a minor if the person provides shelter to a minor without the consent of a parent of the minor and after the person knows that the minor is away from the home of the parent, without the parent's permission, and if the person intentionally:

(i) Fails to release the minor to a law enforcement officer after being requested to do so by the officer; or

(ii) Fails to disclose the location of the minor to a law enforcement officer after being requested to do so by the officer, if the person knows the location of the minor and had either taken the minor to that location or had assisted the minor in reaching that location; or

(iii) Obstructs a law enforcement officer from taking the minor into custody; or

(iv) Assists the minor in avoiding or attempting to avoid the custody of the law enforcement officer.

(b) It is a defense to a prosecution under this section that the defendant had custody of the minor pursuant to a court order.

(2) Harboring a minor is punishable as a gross misdemeanor (~~(if the offender has not been previously convicted under this section and a gross misdemeanor if the offender has been previously convicted under this section)~~).

(3) Any person who provides shelter to a child, absent from home, may notify the department's local community service office of the child's presence.

(4) An adult responsible for involving a child in the commission of an offense may be prosecuted under existing criminal statutes including, but not limited to:

(a) Distribution of a controlled substance to a minor, as defined in RCW 69.50.406;

(b) Promoting prostitution as defined in chapter 9A.88 RCW; and

(c) Complicity of the adult in the crime of a minor, under RCW 9A.08.020.

**Sec. 508.** RCW 13.32A.130 and 1992 c 205 s 206 are each amended to read as follows:

A child admitted to a crisis residential center under this chapter who is not returned to the home of his or her parent or who is not placed in an alternative residential placement under an agreement between the parent and child, shall, except as provided for by RCW 13.32A.140 and 13.32A.160(2), reside in ~~((such))~~ the placement under the rules ~~((and regulations))~~ established for the center for a period not to exceed five consecutive days from the time of intake, except as otherwise provided by this chapter. Crisis residential center staff shall make a concerted effort to achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours from the time of intake, and if the person in charge of the center does not consider it likely that reconciliation will be achieved within the five-day period, then the person in charge shall inform the parent and child of (1) the availability of counseling services; (2) the right to file a petition for an alternative residential placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; and (3) the right to request a review of any alternative residential placement~~((: PROVIDED, That))~~. At no time shall information regarding a parent's or child's rights be withheld if requested~~((: PROVIDED FURTHER, That))~~. The department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating ~~((such))~~ the services and rights. Every officer taking a child into custody shall provide the child and his or her parent(s) or responsible adult with whom the child is placed with a copy of ~~((such))~~ the statement. In addition, the administrator of the facility or his or her designee shall provide every resident and parent with a copy of ~~((such))~~ the statement.

**NEW SECTION. Sec. 509.** A new section is added to chapter 43.101 RCW to read as follows:

The criminal justice training commission shall ensure that every law enforcement agency in the state has an accurate and up-to-date policy manual describing the statutes relating to juvenile runaways.

**Sec. 510.** RCW 9.94A.320 and 1992 c 145 s 4 and 1992 c 75 s 3 are each reenacted and amended to read as follows:

TABLE 2

## CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
XIV	Murder 1 (RCW 9A.32.030) Homicide by abuse (RCW 9A.32.055)
XIII	Murder 2 (RCW 9A.32.050)
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120)
XI	Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073)
X	Kidnapping 1 (RCW 9A.40.020) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Child Molestation 1 (RCW 9A.44.083) Damaging building, etc., by explosion with threat to human being (RCW 70.74.280(1)) Over 18 and deliver heroin or narcotic from Schedule I or II to someone under 18 (RCW 69.50.406) Leading Organized Crime (RCW 9A.82.060(1)(a))
IX	Assault of a Child 2 (RCW 9A.36.130) Robbery 1 (RCW 9A.56.200) Manslaughter 1 (RCW 9A.32.060) Explosive devices prohibited (RCW 70.74.180) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a)) Endangering life and property by explosives with threat to human being (RCW 70.74.270) Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic from Schedule I-V to someone under 18 and 3 years junior (RCW 69.50.406)

- Controlled Substance Homicide (RCW 69.50.415)
- Sexual Exploitation (RCW 9.68A.040)
- Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)
- Promoting Prostitution 1 (RCW 9A.88.070)
- Selling for profit (controlled or counterfeit) any controlled substance (RCW 69.50.410)
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine (RCW 69.50.401(a)(1)(i))
- Manufacture, deliver, or possess with intent to deliver methamphetamine (RCW 69.50.401(a)(1)(ii))
- Vehicular Homicide, by being under the influence of intoxicating liquor or any drug or by the operation of any vehicle in a reckless manner (RCW 46.61.520)
- VII Burglary 1 (RCW 9A.52.020)
- Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)
- Introducing Contraband 1 (RCW 9A.76.140)
- Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1) (b) and (c))
- Child Molestation 2 (RCW 9A.44.086)
- Dealing in depictions of minor engaged in sexually explicit conduct (RCW 9.68A.050)
- Sending, bringing into state depictions of minor engaged in sexually explicit conduct (RCW 9.68A.060)
- Involving a minor in drug dealing (RCW 69.50.401(f))
- VI Bribery (RCW 9A.68.010)
- Manslaughter 2 (RCW 9A.32.070)
- Rape of a Child 3 (RCW 9A.44.079)
- Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)
- Damaging building, etc., by explosion with no threat to human being (RCW 70.74.280(2))



- Endangering life and property by explosives with no threat to human being (RCW 70.74.270)
- Incest 1 (RCW 9A.64.020(1))
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) (RCW 69.50.401(a)(1)(i))
- Intimidating a Judge (RCW 9A.72.160)
- Bail Jumping with Murder 1 (RCW 9A.76.170(2)(a))
- V Criminal Mistreatment 1 (RCW 9A.42.020)
- Theft of a Firearm (RCW 9A.56.— (section 432 of this act))
- Reckless Endangerment 1 (RCW 9A.36.045)
- Rape 3 (RCW 9A.44.060)
- Sexual Misconduct with a Minor 1 (RCW 9A.44.093)
- Child Molestation 3 (RCW 9A.44.089)
- Kidnapping 2 (RCW 9A.40.030)
- Extortion 1 (RCW 9A.56.120)
- Incest 2 (RCW 9A.64.020(2))
- Perjury 1 (RCW 9A.72.020)
- Extortionate Extension of Credit (RCW 9A.82.020)
- Advancing money or property for extortionate extension of credit (RCW 9A.82.030)
- Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)
- Rendering Criminal Assistance 1 (RCW 9A.76.070)
- Bail Jumping with class A Felony (RCW 9A.76.170(2)(b))
- Delivery of imitation controlled substance by person eighteen or over to person under eighteen (RCW 69.52.030(2))
- IV Residential Burglary (RCW 9A.52.025)
- Theft of Livestock 1 (RCW 9A.56.080)
- Robbery 2 (RCW 9A.56.210)
- Assault 2 (RCW 9A.36.021)
- Escape 1 (RCW 9A.76.110)
- Arson 2 (RCW 9A.48.030)

- Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)
  - Malicious Harassment (RCW 9A.36.080)
  - Threats to Bomb (RCW 9.61.150)
  - Willful Failure to Return from Furlough (RCW 72.66.060)
  - Hit and Run — Injury Accident (RCW 46.52.020(4))
  - Vehicular Assault (RCW 46.61.522)
  - Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana or methamphetamines) (RCW 69.50.401(a)(1)(ii) through (iv))
  - Influencing Outcome of Sporting Event (RCW 9A.82.070)
  - Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))
  - Knowingly Trafficking in Stolen Property (RCW 9A.82.050(2))
- III
- Criminal Mistreatment 2 (RCW 9A.42.030)
  - Extortion 2 (RCW 9A.56.130)
  - Unlawful Imprisonment (RCW 9A.40.040)
  - Assault 3 (RCW 9A.36.031)
  - Assault of a Child 3 (RCW 9A.36.140)
  - Custodial Assault (RCW 9A.36.100)
  - Unlawful possession of firearm or pistol by felon (RCW 9.41.040)
  - Harassment (RCW 9A.46.020)
  - Promoting Prostitution 2 (RCW 9A.88.080)
  - Willful Failure to Return from Work Release (RCW 72.65.070)
  - Burglary 2 (RCW 9A.52.030)
  - Introducing Contraband 2 (RCW 9A.76.150)
  - Communication with a Minor for Immoral Purposes (RCW 9.68A.090)
  - Patronizing a Juvenile Prostitute (RCW 9.68A.100)
  - Escape 2 (RCW 9A.76.120)
  - Perjury 2 (RCW 9A.72.030)
  - Bail Jumping with class B or C Felony (RCW 9A.76.170(2)(c))

- Intimidating a Public Servant (RCW 9A.76.180)
- Tampering with a Witness (RCW 9A.72.120)
- Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(a)(1)(ii))
- Delivery of a material in lieu of a controlled substance (RCW 69.50.401(c))
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))
- Recklessly Trafficking in Stolen Property (RCW 9A.82.050(1))
- Theft of livestock 2 (RCW 9A.56.080)
- Securities Act violation (RCW 21.20.400)
- II Malicious Mischief 1 (RCW 9A.48.070)
- Possession of Stolen Property 1 (RCW 9A.56.150)
- Theft 1 (RCW 9A.56.030)
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.401(d))
- Possession of phencyclidine (PCP) (RCW 69.50.401(d))
- Create, deliver, or possess a counterfeit controlled substance (RCW 69.50.401(b))
- Computer Trespass 1 (RCW 9A.52.110)
- ~~((Reckless Endangerment 1 (RCW 9A.36.045)))~~
- Escape from Community Custody (RCW 72.09.310)
- I Theft 2 (RCW 9A.56.040)
- Possession of Stolen Property 2 (RCW 9A.56.160)
- Forgery (RCW 9A.60.020)
- Taking Motor Vehicle Without Permission (RCW 9A.56.070)
- Vehicle Prowl 1 (RCW 9A.52.095)
- Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)
- Malicious Mischief 2 (RCW 9A.48.080)
- Reckless Burning 1 (RCW 9A.48.040)

- Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)
- Unlawful Use of Food Stamps (RCW 9.91.140 (2) and (3))
- False Verification for Welfare (RCW 74.08.055)
- Forged Prescription (RCW 69.41.020)
- Forged Prescription for a Controlled Substance (RCW 69.50.403)
- Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine) (RCW 69.50.401(d))

Sec. 511. RCW 9A.36.045 and 1989 c 271 s 109 are each amended to read as follows:

(1) A person is guilty of reckless endangerment in the first degree when he or she recklessly discharges a firearm in a manner which creates a substantial risk of death or serious physical injury to another person and the discharge is either from a motor vehicle or from the immediate area of a motor vehicle that was used to transport the shooter or the firearm to the scene of the discharge.

(2) A person who unlawfully discharges a firearm from a moving motor vehicle may be inferred to have engaged in reckless conduct, unless the discharge is shown by evidence satisfactory to the trier of fact to have been made without such recklessness.

(3) Reckless endangerment in the first degree is a class ((E)) B felony.

Sec. 512. RCW 9.94A.310 and 1992 c 145 s 9 are each amended to read as follows:

(1) **TABLE 1**  
**Sentencing Grid**

SERIOUSNESS SCORE	OFFENDER SCORE									
	0	1	2	3	4	5	6	7	8	9 or more
<b>XV</b>	Life Sentence without Parole/Death Penalty									
<b>XIV</b>	23y4m 240- 320	24y4m 250- 333	25y4m 261- 347	26y4m 271- 361	27y4m 281- 374	28y4m 291- 388	30y4m 312- 416	32y10m 318- 450	36y 370- 493	40y 411- 548
<b>XIII</b>	13y 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
<b>XII</b>	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	8y4m	9y2m	9y11m	10y9m	11y7m	14y2m	15y3m	17y11m	20y5m
	78-	86-	95-	102-	111-	120-	146-	159-	185-	210-
	102	114	125	136	147	158	194	211	245	280
X	5y	5y6m	6y	6y6m	7y	7y6m	8y6m	10y6m	12y6m	14y6m
	51-	57-	62-	67-	72-	77-	98-	108-	129-	149-
	68	75	82	89	96	102	130	144	171	198
IX	3y	3y6m	4y	4y6m	5y	5y6m	7y6m	8y6m	10y6m	12y6m
	31-	36-	41-	46-	51-	57-	77-	87-	108-	129-
	41	48	54	61	68	75	102	116	144	171
VIII	2y	2y6m	3y	3y6m	4y	4y6m	6y6m	7y6m	8y6m	10y6m
	21-	26-	31-	36-	41-	46-	67-	77-	87-	108-
	27	34	41	48	54	61	89	102	116	144
VII	18m	2y	2y6m	3y	3y6m	4y	5y6m	6y6m	7y6m	8y6m
	15-	21-	26-	31-	36-	41-	57-	67-	77-	87-
	20	27	34	41	48	54	75	89	102	116
VI	13m	18m	2y	2y6m	3y	3y6m	4y6m	5y6m	6y6m	7y6m
	12+-	15-	21-	26-	31-	36-	46-	57-	67-	77-
	14	20	27	34	41	48	61	75	89	102
V	9m	11m	15m	18m	2y2m	3y2m	4y	5y	6y	7y
	6-	12+-	13-	15-	22	33-	41-	51-	62-	72-
	12	14	17	20	29	41	54	68	82	96
IV	6m	9m	13m	15m	18m	2y2m	3y2m	4y2m	5y2m	6y2m
	3-	6-	12+-	13-	15-	22-	33-	43-	53-	63-
	9	12	14	17	20	29	43	57	70	84
III	2m	5m	8m	11m	14m	20m	2y2m	3y2m	4y2m	5y
	1-	3-	4-	9-	12+-	17-	22-	33-	43-	51-
	3	8	12	12	16	22	29	43	57	68
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0.90	2-	3-	4-	12+-	14-	17-	22-	31-	41-
	1dayz	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-
	1dayz	1dayz	5	6	8	12	14	18	22	29

NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years(y) and months(m). Numbers in the second and third rows represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the presumptive sentence is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by 75 percent.

(3) The following additional times shall be added to the presumptive sentence if the offender or an accomplice was armed with a deadly weapon as defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice was armed with a deadly weapon and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive range determined under subsection (2) of this section:

(a) 24 months for Rape 1 (RCW 9A.44.040), Robbery 1 (RCW 9A.56.200), or Kidnapping 1 (RCW 9A.40.020);

(b) 18 months for Burglary 1 (RCW 9A.52.020);

(c) 12 months for (~~Assault 2 (RCW 9A.36.020 or 9A.36.021), Assault of a Child 2 (RCW 9A.36.130)~~) any violent offense except as provided in (a) and (b) of this subsection, Escape 1 (RCW 9A.76.110), (~~Kidnapping 2 (RCW 9A.40.030)~~), Burglary 2 of a building other than a dwelling (RCW 9A.52.030), Theft of Livestock 1 or 2 (RCW 9A.56.080), or any drug offense.

(4) The following additional times shall be added to the presumptive sentence if the offender or an accomplice committed the offense while in a county jail or state correctional facility as that term is defined in this chapter and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility as that term is defined in this chapter, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following times shall be added to the presumptive sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(a)(1)(i) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(a)(1)(ii), (iii), and (iv);

(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.

(5) An additional twenty-four months shall be added to the presumptive sentence for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435.

**NEW SECTION. Sec. 513.** A new section is added to chapter 4.24 RCW to read as follows:

No person who owns, operates, is employed by, or volunteers at a program approved under RCW 77.32.155 shall be liable for any injury that occurs while the person who suffered the injury is participating in the course, unless the injury is the result of gross negligence.

**NEW SECTION. Sec. 514.** A new section is added to chapter 9.91 RCW to read as follows:

(1) It is unlawful for a person under eighteen years old, unless the person is at least fourteen years old and has the permission of a parent or guardian to do so, to purchase or possess a personal protection spray device. A violation of this subsection is a misdemeanor.

(2) No town, city, county, special purpose district, quasi-municipal corporation or other unit of government may prohibit a person eighteen years old or older, or a person fourteen years old or older who has the permission of a parent or guardian to do so, from purchasing or possessing a personal protection spray device or from using such a device in a manner consistent with the

authorized use of force under RCW 9A.16.020. No town, city, county, special purpose district, quasi-municipal corporation, or other unit of government may prohibit a person eighteen years old or older from delivering a personal protection spray device to a person authorized to possess such a device.

(3) For purposes of this section:

(a) "Personal protection spray device" means a commercially available dispensing device designed and intended for use in self-defense and containing a nonlethal sternutator or lacrimator agent, including but not limited to:

(i) Tear gas, the active ingredient of which is either chloracetophenone (CN) or O-chlorobenzylidene malonotrile (CS); or

(ii) Other agent commonly known as mace, pepper mace, or pepper gas.

(b) "Delivering" means actual, constructive, or attempted transferring from one person to another.

(4) Nothing in this section authorizes the delivery, purchase, possession, or use of any device or chemical agent that is otherwise prohibited by state law.

**Sec. 515.** RCW 43.20A.090 and 1970 ex.s. c 18 s 7 are each amended to read as follows:

The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The secretary shall appoint an assistant secretary to administer the juvenile rehabilitation responsibilities required of the department by chapters 13.04, 13.40, and 13.50 RCW. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of RCW 41.06.076, 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.

**NEW SECTION.** **Sec. 516.** A new section is added to chapter 13.40 RCW to read as follows:

The secretary, assistant secretary, or the secretary's designee shall manage and administer the department's juvenile rehabilitation responsibilities, including but not limited to the operation of all state institutions or facilities used for juvenile rehabilitation.

The secretary or assistant secretary shall:

(1) Prepare a biennial budget request sufficient to meet the confinement and rehabilitative needs of the juvenile rehabilitation program, as forecast by the office of financial management;

(2) Create by rule a formal system for inmate classification. This classification system shall consider:

(a) Public safety;

(b) Internal security and staff safety; and

(c) Rehabilitative resources both within and outside the department;

(3) Develop agreements with local jurisdictions to develop regional facilities with a variety of custody levels;

(4) Adopt rules establishing effective disciplinary policies to maintain order within institutions;

(5) Develop a comprehensive diagnostic evaluation process to be used at intake, including but not limited to evaluation for substance addiction or abuse, literacy, learning disabilities, fetal alcohol syndrome or effect, attention deficit disorder, and mental health;

(6) Develop a plan to implement, by July 1, 1995:

(a) Substance abuse treatment programs for all state juvenile rehabilitation facilities and institutions;

(b) Vocational education and instruction programs at all state juvenile rehabilitation facilities and institutions; and

(c) An educational program to establish self-worth and responsibility in juvenile offenders. This educational program shall emphasize instruction in character-building principles such as: Respect for self, others, and authority; victim awareness; accountability; work ethics; good citizenship; and life skills; and

(7) Study, in conjunction with the superintendent of public instruction, educators, and superintendents of state facilities for juvenile offenders, the feasibility and value of consolidating within a single entity the provision of educational services to juvenile offenders committed to state facilities. The assistant secretary shall report his or her findings to the legislature by December 1, 1995.

**NEW SECTION. Sec. 517.** A new section is added to chapter 13.40 RCW to read as follows:

The secretary, assistant secretary, or the secretary's designee shall review the vocational education curriculum, facilities, and teaching personnel in all juvenile residential programs and report to the appropriate committees of the legislature by December 12, 1994. The report shall include an assessment of the number and types of vocational programs currently available, and the status of buildings, teaching personnel, and equipment currently used for vocational training. The report shall also contain an action plan for implementing, by July 1, 1995, a state-wide uniform prevocational and vocational education program, including but not limited to, a projection of the need for the programs for both female and male juvenile offenders, the number of students that could benefit from the programs, projected vocational trade needs, physical plant modifications or building needs, equipment needs, teaching personnel needs, and estimated costs. In addition, the report shall identify how the department can develop vocational programs jointly with trade associations, trade unions, and other state, local, and federal agencies. The department shall also identify businesses and industries potentially interested in working with the program.



NEW SECTION. **Sec. 518.** A new section is added to chapter 13.40 RCW to read as follows:

The secretary, assistant secretary, or the secretary's designee shall issue arrest warrants for juveniles who escape from department residential custody. These arrest warrants shall authorize any law enforcement, probation and parole, or peace officer of this state, or any other state where the juvenile is located, to arrest the juvenile and to place the juvenile in physical custody pending the juvenile's return to confinement in a state juvenile rehabilitation facility.

**Sec. 519.** RCW 13.04.030 and 1988 c 14 s 1 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, the juvenile courts in the several counties of this state, shall have exclusive original jurisdiction over all proceedings:

~~((1))~~ (a) Under the interstate compact on placement of children as provided in chapter 26.34 RCW;

~~((2))~~ (b) Relating to children alleged or found to be dependent as provided in chapter 26.44 RCW and in RCW 13.34.030 through 13.34.170~~((as now or hereafter amended))~~);

~~((3))~~ (c) Relating to the termination of a parent and child relationship as provided in RCW 13.34.180 through 13.34.210~~((as now or hereafter amended))~~);

~~((4))~~ (d) To approve or disapprove alternative residential placement as provided in RCW 13.32A.170;

~~((5))~~ (e) Relating to juveniles alleged or found to have committed offenses, traffic infractions, or violations as provided in RCW 13.40.020 through 13.40.230, ~~((as now or hereafter amended,))~~ unless:

~~((a))~~ (i) The juvenile court transfers jurisdiction of a particular juvenile to adult criminal court pursuant to RCW 13.40.110~~((as now or hereafter amended))~~; or

~~((b))~~ (ii) The statute of limitations applicable to adult prosecution for the offense, traffic infraction, or violation has expired; or

~~((c))~~ (iii) The alleged offense or infraction is a traffic, fish, boating, or game offense or traffic infraction committed by a juvenile sixteen years of age or older and would, if committed by an adult, be tried or heard in a court of limited jurisdiction, in which instance the appropriate court of limited jurisdiction shall have jurisdiction over the alleged offense or infraction: PROVIDED, That if such an alleged offense or infraction and an alleged offense or infraction subject to juvenile court jurisdiction arise out of the same event or incident, the juvenile court may have jurisdiction of both matters: PROVIDED FURTHER, That the jurisdiction under this subsection does not constitute "transfer" or a "decline" for purposes of RCW 13.40.110(1) or (e)(i) of this subsection ~~((5)(a) of this section))~~: PROVIDED FURTHER, That courts of limited jurisdiction which confine juveniles for an alleged offense or infraction may place juveniles in juvenile detention facilities under an agreement with the officials responsible

for the administration of the juvenile detention facility in RCW 13.04.035 and 13.20.060; or

~~((6))~~ (iv) The juvenile is sixteen or seventeen years old and the alleged offense is: (A) A serious violent offense as defined in RCW 9.94A.030 committed on or after the effective date of this section; or (B) a violent offense as defined in RCW 9.94A.030 committed on or after the effective date of this section and the juvenile has a criminal history consisting of: (I) One or more prior serious violent offenses; (II) two or more prior violent offenses; or (III) three or more of any combination of the following offenses: Any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's thirteenth birthday and prosecuted separately. In such a case the adult criminal court shall have exclusive original jurisdiction.

If the juvenile challenges the state's determination of the juvenile's criminal history, the state may establish the offender's criminal history by a preponderance of the evidence. If the criminal history consists of adjudications entered upon a plea of guilty, the state shall not bear a burden of establishing the knowing and voluntariness of the plea;

(f) Under the interstate compact on juveniles as provided in chapter 13.24 RCW;

~~((7))~~ (g) Relating to termination of a diversion agreement under RCW 13.40.080 (~~as now or hereafter amended~~), including a proceeding in which the divertee has attained eighteen years of age; and

~~((8))~~ (h) Relating to court validation of a voluntary consent to foster care placement under chapter 13.34 RCW, by the parent or Indian custodian of an Indian child, except if the parent or Indian custodian and child are residents of or domiciled within the boundaries of a federally recognized Indian reservation over which the tribe exercises exclusive jurisdiction.

(2) The family court shall have concurrent original jurisdiction with the juvenile court over all proceedings under this section if the superior court judges of a county authorize concurrent jurisdiction as provided in RCW 26.12.010.

(3) A juvenile subject to adult superior court jurisdiction under subsection (1)(e) (i) through (iv) of this section, who is detained pending trial, may be detained in a county detention facility as defined in RCW 13.40.020 pending sentencing or a dismissal.

**Sec. 520.** RCW 13.40.020 and 1993 c 373 s 1 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

(a) A class A felony, or an attempt to commit a class A felony;

(b) Manslaughter in the first degree; or

(c) Assault in the second degree, extortion in the first degree, child molestation in the second degree, kidnapping in the second degree, robbery in

the second degree, residential burglary, or burglary in the second degree, where such offenses include the infliction of bodily harm upon another or where during the commission of or immediate withdrawal from such an offense the perpetrator is armed with a deadly weapon (~~(or firearm as defined in RCW 9A.04.110)~~);

(2) "Community service" means compulsory service, without compensation, performed for the benefit of the community by the offender as punishment for committing an offense. Community service may be performed through public or private organizations or through work crews;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth not committed to the department or an order granting a deferred adjudication pursuant to section 545 of this act. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses. As a mandatory condition of any term of community supervision, the court shall order the juvenile to refrain from committing new offenses. As a mandatory condition of community supervision, the court shall order the juvenile to comply with the mandatory school attendance provisions of chapter 28A.225 RCW and to inform the school of the existence of this requirement. Community supervision is an individualized program comprised of one or more of the following:

(a) Community-based sanctions;

(b) Community-based rehabilitation;

(c) Monitoring and reporting requirements;

(4) Community-based sanctions may include one or more of the following:

(a) A fine, not to exceed one hundred dollars;

(b) Community service not to exceed one hundred fifty hours of service;

(5) "Community-based rehabilitation" means one or more of the following:

Attendance of information classes; counseling, outpatient substance abuse treatment programs, outpatient mental health programs, anger management classes, or other services; or attendance at school or other educational programs appropriate for the juvenile as determined by the school district. Placement in community-based rehabilitation programs is subject to available funds;

(6) "Monitoring and reporting requirements" means one or more of the following: Curfews; requirements to remain at home, school, work, or court-ordered treatment programs during specified hours; restrictions from leaving or entering specified geographical areas; requirements to report to the probation officer as directed and to remain under the probation officer's supervision; and other conditions or limitations as the court may require which may not include confinement;

(7) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a detention facility operated by or pursuant to a contract with any county. The county may operate or contract with vendors to operate county detention facilities. The department may operate or contract to operate

detention facilities for juveniles committed to the department. Pretrial confinement or confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court (~~and may be served in a detention group home, detention foster home, or with electronic monitoring. Detention group homes and detention foster homes used for confinement shall not also be used for the placement of dependent children. Confinement in detention group homes and detention foster homes and electronic monitoring are subject to available funds~~);

(8) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(9) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history. A successfully completed deferred adjudication shall not be considered part of the respondent's criminal history;

(10) "Department" means the department of social and health services;

(11) "Detention facility" means a county facility, paid for by the county, for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order. "Detention facility" includes county group homes, inpatient substance abuse programs, juvenile basic training camps, and electronic monitoring;

(12) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender, or any other person, community accountability board, or other entity except a law enforcement official or entity, with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.40.080, or any person, community accountability board, or other entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter. For purposes of this subsection, "community accountability board" means a board comprised of members of the local community in which the juvenile offender resides. The superior court shall appoint the members. The boards shall consist of at least three and not more than seven members. If possible, the board should include a variety of representatives from the community, such as a law enforcement officer, teacher or school administrator, high school student, parent, and business owner, and should represent the cultural diversity of the local community;

(13) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(14) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court pursuant to RCW 13.40.110 or who is otherwise under adult court jurisdiction;

(15) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(16) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(17) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(18) "Minor or first offender" means a person (~~sixteen years of age or younger~~) whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

(b) Two misdemeanors and one gross misdemeanor;

(c) One misdemeanor and two gross misdemeanors; and

(d) Three gross misdemeanors(~~;~~

~~(e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;~~

~~(f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; residential burglary; vehicular homicide; or arson in the second degree).~~

For purposes of this definition, current violations shall be counted as misdemeanors;

(19) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(20) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(21) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, lost wages resulting from physical injury, and costs of the victim's counseling reasonably related to the offense if the offense is a sex offense. Restitution shall not include reimbursement for damages for mental anguish, pain and suffering, or other intangible losses. Nothing in this chapter shall limit or replace civil remedies or defenses available to the victim or offender;

(22) "Secretary" means the secretary of the department of social and health services. "Assistant secretary" means the assistant secretary for juvenile rehabilitation for the department;

(23) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(24) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(25) "Sexual motivation" means that one of the purposes for which the respondent committed the offense was for the purpose of his or her sexual gratification;

(26) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

(27) "Violation" means an act or omission, which if committed by an adult, must be proven beyond a reasonable doubt, and is punishable by sanctions which do not include incarceration;

(28) "Violent offense" means a violent offense as defined in RCW 9.94A.030.

**Sec. 521.** RCW 13.40.0354 and 1989 c 407 s 6 are each amended to read as follows:

The total current offense points for use in the standards range matrix of schedules D-1, D-2, and D-3 are computed as follows:

(1) The disposition offense category is determined by the offense of conviction. Offenses are divided into ten levels of seriousness, ranging from low (seriousness level E) to high (seriousness level A+), see schedule A, RCW 13.40.0357.

(2) The prior offense increase factor is summarized in schedule B, RCW 13.40.0357. The increase factor is determined for each prior offense by using the time span and the offense category in the prior offense increase factor grid. Time span is computed from the date of the prior offense to the date of the current offense. The total increase factor is determined by totalling the increase factors for each prior offense and adding a constant factor of 1.0.

(3) The current offense points are summarized in schedule C, RCW 13.40.0357. The current offense points are determined for each current offense by locating the juvenile's age on the horizontal axis and using the offense category on the vertical axis. The juvenile's age is determined as of the time of the current offense and is rounded down to the nearest whole number.

(4) The total current offense points are determined for each current offense by multiplying the total increase factor by the current offense points. The total current offense points are rounded down to the nearest whole number.

(5) All current offense points calculated in schedules D-1, D-2, and D-3 shall be increased by a factor of five percent if the offense is committed by a juvenile who is in a program of parole under this chapter.

Sec. 522. RCW 13.40.0357 and 1989 c 407 s 7 are each amended to read as follows:

SCHEDULE A  
DESCRIPTION AND OFFENSE CATEGORY

JUVENILE DISPOSITION OFFENSE CATEGORY	DESCRIPTION (RCW CITATION)	JUVENILE DISPOSITION CATEGORY FOR ATTEMPT, BAILJUMP, CONSPIRACY, OR SOLICITATION
	<b>Arson and Malicious Mischief</b>	
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+
	<b>Assault and Other Crimes Involving Physical Harm</b>	
A	Assault 1 (9A.36.011)	B+
B+	Assault 2 (9A.36.021)	C+
C+	Assault 3 (9A.36.031)	D+
D+	Assault 4 (9A.36.041)	E
D+	Reckless Endangerment (9A.36.050)	E
C+	Promoting Suicide Attempt (9A.36.060)	D+
D+	Coercion (9A.36.070)	E
C+	Custodial Assault (9A.36.100)	D+
	<b>Burglary and Trespass</b>	
B+	Burglary 1 (9A.52.020)	C+
B	Burglary 2 (9A.52.030)	C
D	Burglary Tools (Possession of) (9A.52.060)	E
D	Criminal Trespass 1 (9A.52.070)	E
E	Criminal Trespass 2 (9A.52.080)	E
D	Vehicle Prowling (9A.52.100)	E

	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 Sale (69.50.401(a)(1)(i))	B+
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Sale (69.50.401(a)(1)(ii))	C
E	Possession of Marihuana <40 grams (69.50.401(e))	E
C	Fraudulently Obtaining Controlled Substance (69.50.403)	C
C+	Sale of Controlled Substance for Profit (69.50.410)	C+
E	<del>((Glue Sniffing (9.47A.050)))</del> <u>Unlawful Inhalation (9.47A.020)</u>	E
B	Violation of Uniform Controlled Substances Act - Narcotic Counterfeit Substances (69.50.401(b)(1)(i))	B
C	Violation of Uniform Controlled Substances Act - Nonnarcotic Counterfeit Substances (69.50.401(b)(1) (ii), (iii), (iv))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(d))	C
C	Violation of Uniform Controlled Substances Act - Possession of a Controlled Substance (69.50.401(c))	C
	Firearms and Weapons	
<del>((C+</del>	<del>Committing Crime when Armed (9.41.025)</del>	<del>D+))</del>



E	Carrying Loaded Pistol Without Permit (9.41.050)	E
<del>(E)</del> C	<del>(Use)</del> Possession of Firearms by Minor <del>((&lt;14))</del> (<18) <del>((9.41.240))</del> (9.41.040(l)(e))	<del>(E)</del> 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+
<del>(D)</del>	<del>Custodial Interference (9A.40.050)</del>	<del>E)</del>
	Obstructing Governmental Operation	
E	Obstructing a Public Servant (9A.76.020)	E
E	Resisting Arrest (9A.76.040)	E
B	Introducing Contraband 1 (9A.76.140)	C
C	Introducing Contraband 2 (9A.76.150)	D
E	Introducing Contraband 3 (9A.76.160)	E
B+	Intimidating a Public Servant (9A.76.180)	C+
B+	Intimidating a Witness (9A.72.110)	C+
<del>(E)</del>	<del>Criminal Contempt (9.23.010)</del>	<del>E)</del>
	Public Disturbance	
C+	Riot with Weapon (9A.84.010)	D+
D+	Riot Without Weapon (9A.84.010)	E

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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+	<del>((Public Indecency))</del> <u>Indecent Exposure</u> (Victim <14) (9A.88.010)	E
E	<del>((Public Indecency))</del> <u>Indecent Exposure</u> (Victim 14 or over) (9A.88.010)	E
B+	Promoting Prostitution 1 (9A.88.070)	C+
C+	Promoting Prostitution 2 (9A.88.080)	D+
E	O & A (Prostitution) (9A.88.030)	E
B+	Indecent Liberties (9A.44.100)	C+
B+	Child Molestation 1 (9A.44.083)	C+
C+	Child Molestation 2 (9A.44.086)	C
	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 ( <del>((9A.56.020))</del> ) <u>(9A.60.020)</u>	D
A	Robbery 1 (9A.56.200)	B+
B+	Robbery 2 (9A.56.210)	C+
B+	Extortion 1 (9A.56.120)	C+
C+	Extortion 2 (9A.56.130)	D+
B	Possession of Stolen Property 1 (9A.56.150)	C
C	Possession of Stolen Property 2 (9A.56.160)	D
D	Possession of Stolen Property 3 (9A.56.170)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	Motor Vehicle Related Crimes	
E	Driving Without a License (46.20.021)	E

C	Hit and Run - Injury (46.52.020(4))	D
D	Hit and Run-Attended (46.52.020(5))	E
E	Hit and Run-Unattended (46.52.010)	E
C	Vehicular Assault (46.61.522)	D
C	Attempting to Elude Pursuing Police Vehicle (46.61.024)	D
E	Reckless Driving (46.61.500)	E
D	Driving While Under the Influence (46.61.515)	E
<del>(B+</del>	<del>Negligent Homicide by Motor Vehicle (46.61.520)</del>	<del>C+))</del>
D	Vehicle Prowling (9A.52.100)	E
C	Taking Motor Vehicle Without Owner's Permission (9A.56.070)	D
	Other	
B	Bomb Threat (9.61.160)	C
C	Escape 1 <sup>1</sup> (9A.76.110)	C
C	Escape 2 <sup>1</sup> (9A.76.120)	C
D	Escape 3 (9A.76.130)	E
C	Failure to Appear in Court (10.19.130)	D
<del>(E</del>	<del>Tampering with Fire Alarm Apparatus (9.40.100)</del>	<del>E))</del>
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) <sup>2</sup>	V

<sup>1</sup>Escape 1 and 2 and Attempted Escape 1 and 2 are classed as C offenses and the standard range is established as follows:

1st escape or attempted escape during 12-month period - 4 weeks confinement

2nd escape or attempted escape during 12-month period - 8 weeks confinement

3rd and subsequent escape or attempted escape during 12-month period - 12 weeks confinement

<sup>2</sup>If the court finds that a respondent has violated terms of an order, it may impose a penalty of up to 30 days of confinement.

**SCHEDULE B  
PRIOR OFFENSE INCREASE FACTOR**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**TIME SPAN**

OFFENSE CATEGORY	0-12 Months	13-24 Months	25 Months or More
A+	.9	.9	.9
A	.9	.8	.6
A-	.9	.8	.5
B+	.9	.7	.4
B	.9	.6	.3
C+	.6	.3	.2
C	.5	.2	.2
D+	.3	.2	.1
D	.2	.1	.1
E	.1	.1	.1

Prior history - Any offense in which a diversion agreement or counsel and release form was signed, or any offense which has been adjudicated by court to be correct prior to the commission of the current offense(s).

**SCHEDULE C  
CURRENT OFFENSE POINTS**

For use with all CURRENT OFFENSES occurring on or after July 1, 1989.

**AGE**

OFFENSE CATEGORY	12 & Under	13	14	15	16	17
A+	STANDARD RANGE 180-224 WEEKS					
A	250	300	350	375	375	375
A-	150	150	150	200	200	200
B+	110	110	120	130	140	150
B	45	45	50	50	57	57
C+	44	44	49	49	55	55

C	40	40	45	45	50	50
D+	16	18	20	22	24	26
D	14	16	18	20	22	24
E	4	4	4	6	8	10

JUVENILE SENTENCING STANDARDS  
SCHEDULE D-1

This schedule may only be used for minor/first offenders. After the determination is made that a youth is a minor/first offender, the court has the discretion to select sentencing option A, B, or C.

MINOR/FIRST OFFENDER

OPTION A  
STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine
1-9	0-3 months	and/or 0-8	and/or 0-\$10
10-19	0-3 months	and/or 0-8	and/or 0-\$10
20-29	0-3 months	and/or 0-16	and/or 0-\$10
30-39	0-3 months	and/or 8-24	and/or 0-\$25
40-49	3-6 months	and/or 16-32	and/or 0-\$25
50-59	3-6 months	and/or 24-40	and/or 0-\$25
60-69	6-9 months	and/or 32-48	and/or 0-\$50
70-79	6-9 months	and/or 40-56	and/or 0-\$50
80-89	9-12 months	and/or 48-64	and/or 10-\$100
90-109	9-12 months	and/or 56-72	and/or 10-\$100

OR

OPTION B  
STATUTORY OPTION

- 0-12 Months Community Supervision
- 0-150 Hours Community Service
- 0-100 Fine

A term of community supervision with a maximum of 150 hours, \$100.00 fine, and 12 months supervision.

OR

OPTION C  
MANIFEST INJUSTICE

When a term of community supervision would effectuate a manifest injustice, another disposition may be imposed. When a judge imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a

maximum term and the provisions of RCW (~~(13.40.030(5), as now or hereafter amended,)~~ 13.40.030(2)) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS  
SCHEDULE D-2

This schedule may only be used for middle offenders. After the determination is made that a youth is a middle offender, the court has the discretion to select sentencing option A, B, or C.

MIDDLE OFFENDER

OPTION A  
STANDARD RANGE

Points	Community Supervision	Community Service Hours	Fine	Confinement Days Weeks
1-9	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
10-19	0-3 months	and/or 0-8	and/or 0-\$10	and/or 0
20-29	0-3 months	and/or 0-16	and/or 0-\$10	and/or 0
30-39	0-3 months	and/or 8-24	and/or 0-\$25	and/or 2-4
40-49	3-6 months	and/or 16-32	and/or 0-\$25	and/or 2-4
50-59	3-6 months	and/or 24-40	and/or 0-\$25	and/or 5-10
60-69	6-9 months	and/or 32-48	and/or 0-\$50	and/or 5-10
70-79	6-9 months	and/or 40-56	and/or 0-\$50	and/or 10-20
80-89	9-12 months	and/or 48-64	and/or 0-\$100	and/or 10-20
90-109	9-12 months	and/or 56-72	and/or 0-\$100	and/or 15-30
110-129				8-12
130-149				13-16
150-199				21-28
200-249				30-40
250-299				52-65
300-374				80-100
375+				103-129

Middle offenders with more than 110 points do not have to be committed. They may be assigned community supervision under option B.

All A+ offenses 180-224 weeks

OR

OPTION B  
STATUTORY OPTION

0-12 Months Community Supervision

0-150 Hours Community Service

0-100 Fine

The court may impose a determinate disposition of community supervision and/or up to 30 days confinement; in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150(~~(, as now or hereafter amended)~~).

OR

OPTION C  
MANIFEST INJUSTICE

If the court determines that a disposition under A or B would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term and the provisions of RCW (~~(13.40.030(5), as now or hereafter amended)~~) 13.40.030(2) shall be used to determine the range.

JUVENILE SENTENCING STANDARDS  
SCHEDULE D-3

This schedule may only be used for serious offenders. After the determination is made that a youth is a serious offender, the court has the discretion to select sentencing option A or B.

SERIOUS OFFENDER  
OPTION A  
STANDARD RANGE

Points	Institution Time
0-129	8-12 weeks
130-149	13-16 weeks
150-199	21-28 weeks
200-249	30-40 weeks
250-299	52-65 weeks
300-374	80-100 weeks
375+	103-129 weeks
All A+ Offenses	180-224 weeks

OR

OPTION B  
MANIFEST INJUSTICE

A disposition outside the standard range shall be determined and shall be comprised of confinement or community supervision or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding 30 days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW (~~(13.40.030(5), as now or hereafter amended)~~) 13.40.030(2) shall be used to determine the range.

Sec. 523. RCW 13.40.160 and 1992 c 45 s 6 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section.

If the court concludes, and enters reasons for its conclusion, that disposition within the standard range would effectuate a manifest injustice the court shall impose a disposition outside the standard range, as indicated in option B of schedule D-3, RCW 13.40.0357. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

A disposition outside the standard range shall be determinate and shall be comprised of confinement or community supervision, or a combination thereof. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2)~~((as now or hereafter amended,))~~ shall be used to determine the range. A disposition outside the standard range is appealable under RCW 13.40.230~~((as now or hereafter amended,))~~ by the state or the respondent. A disposition within the standard range is not appealable under RCW 13.40.230 ~~((as now or hereafter amended,))~~.

(2) Where the respondent is found to be a minor or first offender, the court shall order that the respondent serve a term of community supervision as indicated in option A or option B of schedule D-1, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section. If the court determines that a disposition of community supervision would effectuate a manifest injustice the court may impose another disposition under option C of schedule D-1, RCW 13.40.0357. Except as provided in subsection (5) of this section, a disposition other than a community supervision may be imposed only after the court enters reasons upon which it bases its conclusions that imposition of community supervision would effectuate a manifest injustice. When a judge finds a manifest injustice and imposes a sentence of confinement exceeding thirty days, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2)~~((as now or hereafter amended,))~~ shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

Except for disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section, a disposition may be appealed as provided in RCW 13.40.230~~((as now or hereafter amended,))~~ by the state or the respondent. A disposition of community supervision or a disposition imposed pursuant to subsection (5) of this section may not be appealed under RCW 13.40.230 ~~((as now or hereafter amended,))~~.

(3) Where a respondent is found to have committed an offense for which the respondent declined to enter into a diversion agreement, the court shall impose a term of community supervision limited to the conditions allowed in a diversion agreement as provided in RCW 13.40.080(2) ~~((as now or hereafter amended,))~~.

(4) If a respondent is found to be a middle offender:



(a) The court shall impose a determinate disposition within the standard range(s) for such offense, as indicated in option A of schedule D-2, RCW 13.40.0357 except as provided in subsections (5) and (6) of this section: PROVIDED, That if the standard range includes a term of confinement exceeding thirty days, commitment shall be to the department for the standard range of confinement; or

(b) The court shall impose a disposition under (a) of this subsection, which shall be suspended, and shall impose a determinate disposition of community supervision and/or up to thirty days confinement, as indicated in option B of schedule D-2, RCW 13.40.0357 in which case, if confinement has been imposed, the court shall state either aggravating or mitigating factors as set forth in RCW 13.40.150 ((as now or hereafter amended)). If the offender violates any condition of the disposition, the court may revoke the suspension and order execution of the sentence. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4)(a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(2)((as now or hereafter amended;)) shall be used to determine the range. The court's finding of manifest injustice shall be supported by clear and convincing evidence.

(d) A disposition pursuant to subsection (4)(c) of this section is appealable under RCW 13.40.230((as now or hereafter amended;)) by the state or the respondent. A disposition pursuant to subsection (4) (a) or (b) of this section is not appealable under RCW 13.40.230 ((as now or hereafter amended)).

(5) When a serious, middle, or minor first offender is found to have committed a sex offense, other than a sex offense that is also a serious violent offense as defined by RCW 9A.030, and has no history of a prior sex offense, the court, on its own motion or the motion of the state or the respondent, may order an examination to determine whether the respondent is amenable to treatment.

The report of the examination shall include at a minimum the following: The respondent's version of the facts and the official version of the facts, the respondent's offense history, an assessment of problems in addition to alleged deviant behaviors, the respondent's social, educational, and employment situation, and other evaluation measures used. The report shall set forth the sources of the evaluator's information.

The examiner shall assess and report regarding the respondent's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

- (a)(i) Frequency and type of contact between the offender and therapist;
- (ii) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(iii) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members, legal guardians, or others;

(iv) Anticipated length of treatment; and

(v) Recommended crime-related prohibitions.

The court on its own motion may order, or on a motion by the state shall order, a second examination regarding the offender's amenability to treatment. The evaluator shall be selected by the party making the motion. The defendant shall pay the cost of any second examination ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost.

After receipt of reports of the examination, the court shall then consider whether the offender and the community will benefit from use of this special sex offender disposition alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this section. If the court determines that this special sex offender disposition alternative is appropriate, then the court shall impose a determinate disposition within the standard range for the offense, and the court may suspend the execution of the disposition and place the offender on community supervision for up to two years. As a condition of the suspended disposition, the court may impose the conditions of community supervision and other conditions, including up to thirty days of confinement and requirements that the offender do any one or more of the following:

(b)(i) Devote time to a specific education, employment, or occupation;

(ii) Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The respondent shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the probation counselor, and the court, and shall not change providers without court approval after a hearing if the prosecutor or probation counselor object to the change;

(iii) Remain within prescribed geographical boundaries and notify the court or the probation counselor prior to any change in the offender's address, educational program, or employment;

(iv) Report to the prosecutor and the probation counselor prior to any change in a sex offender treatment provider. This change shall have prior approval by the court;

(v) Report as directed to the court and a probation counselor;

(vi) Pay all court-ordered legal financial obligations, perform community service, or any combination thereof; or

(vii) Make restitution to the victim for the cost of any counseling reasonably related to the offense.

The sex offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties. The reports shall reference the treatment plan and include at a minimum the following: Dates of attendance, respondent's compliance with requirements, treatment activities, the respondent's relative progress in treatment, and any other material specified by the court at the time of the disposition.

At the time of the disposition, the court may set treatment review hearings as the court considers appropriate.

Except as provided in this subsection (5), after July 1, 1991, examinations and treatment ordered pursuant to this subsection shall only be conducted by sex offender treatment providers certified by the department of health pursuant to chapter 18.155 RCW. A sex offender therapist who examines or treats a juvenile sex offender pursuant to this subsection does not have to be certified by the department of health pursuant to chapter 18.155 RCW if the court finds that: (A) The offender has already moved to another state or plans to move to another state for reasons other than circumventing the certification requirements; (B) no certified providers are available for treatment within a reasonable geographical distance of the offender's home; and (C) the evaluation and treatment plan comply with this subsection (5) and the rules adopted by the department of health.

If the offender violates any condition of the disposition or the court finds that the respondent is failing to make satisfactory progress in treatment, the court may revoke the suspension and order execution of the ~~((sentence))~~ disposition or the court may impose a penalty of up to thirty days' confinement for violating conditions of the disposition. The court may order both execution of the disposition and up to thirty days' confinement for the violation of the conditions of the disposition. The court shall give credit for any confinement time previously served if that confinement was for the offense for which the suspension is being revoked.

For purposes of this section, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a direct result of the crime charged. "Victim" may also include a known parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(6) Section 525 of this act shall govern the disposition of any juvenile adjudicated of possessing a firearm in violation of RCW 9.41.040(1)(e) or any crime in which a special finding is entered that the juvenile was armed with a firearm.

(7) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

~~((7))~~ (8) Except as provided for in subsection (5) of this section, the court shall not suspend or defer the imposition or the execution of the disposition.

~~((8))~~ (9) In no case shall the term of confinement imposed by the court at disposition exceed that to which an adult could be subjected for the same offense.

Sec. 524. RCW 13.40.185 and 1981 c 299 s 15 are each amended to read as follows:

(1) Any term of confinement imposed for an offense which exceeds thirty days shall be served under the supervision of the department. If the period of confinement imposed for more than one offense exceeds thirty days but the term imposed for each offense is less than thirty days, the confinement may, in the discretion of the court, be served in a juvenile facility operated by or pursuant to a contract with the state or a county.

(2) Whenever a juvenile is confined in a detention facility or is committed to the department, the court may not directly order a juvenile into a particular county or state facility. The juvenile court administrator and the secretary, assistant secretary, or the secretary's designee, as appropriate, has the sole discretion to determine in which facility a juvenile should be confined or committed. The counties may operate a variety of detention facilities as determined by the county legislative authority subject to available funds.

NEW SECTION. Sec. 525. A new section is added to chapter 13.40 RCW to read as follows:

(1) If a respondent is found to have been in possession of a firearm in violation of RCW 9A.10.040(1)(e), the court shall impose a determinate disposition of ten days of confinement and up to twelve months of community supervision. If the offender's standard range of disposition for the offense as indicated in RCW 13.40.0357 is more than thirty days of confinement, the court shall commit the offender to the department for the standard range disposition. The offender shall not be released until the offender has served a minimum of ten days in confinement.

(2) If the court finds that the respondent or an accomplice was armed with a firearm, the court shall determine the standard range disposition for the offense pursuant to RCW 13.40.160. Ninety days of confinement shall be added to the entire standard range disposition of confinement if the offender or an accomplice was armed with a firearm when the offender committed: (a) Any violent offense; or (b) escape in the first degree; burglary in the second degree; theft of livestock in the first or second degree; or any felony drug offense. If the offender or an accomplice was armed with a firearm and the offender is being adjudicated for an anticipatory felony offense under chapter 9A.28 RCW to commit one of the offenses listed in this subsection, ninety days shall be added to the entire standard range disposition of confinement. The ninety days shall be imposed regardless of the offense's juvenile disposition offense category as designated in RCW 13.40.0357. The department shall not release the offender until the offender has served a minimum of ninety days in confinement, unless

the juvenile is committed to and successfully completes the juvenile offender basic training camp disposition option.

(3) Option B of schedule D-2, RCW 13.40.0357, shall not be available for middle offenders who receive a disposition under this section. When a disposition under this section would effectuate a manifest injustice, the court may impose another disposition. When a judge finds a manifest injustice and imposes a disposition of confinement exceeding thirty days, the court shall commit the juvenile to a maximum term, and the provisions of RCW 13.40.030(2) shall be used to determine the range. When a judge finds a manifest injustice and imposes a disposition of confinement less than thirty days, the disposition shall be comprised of confinement or community supervision or both.

(4) Any term of confinement ordered pursuant to this section may run concurrently to any term of confinement imposed in the same disposition for other offenses.

**NEW SECTION.** **Sec. 526.** A new section is added to chapter 13.40 RCW to read as follows:

A prosecutor may file a special allegation that the offender or an accomplice was armed with a firearm when the offender committed the alleged offense. If a special allegation has been filed and the court finds that the offender committed the alleged offense, the court shall also make a finding whether the offender or an accomplice was armed with a firearm when the offender committed the offense.

**Sec. 527.** RCW 13.40.210 and 1990 c 3 s 304 are each amended to read as follows:

(1) The secretary shall, except in the case of a juvenile committed by a court to a term of confinement in a state institution outside the appropriate standard range for the offense(s) for which the juvenile was found to be guilty established pursuant to RCW 13.40.030, ~~((as now or hereafter amended,))~~ set a release or discharge date for each juvenile committed to its custody ~~((which))~~. The release or discharge date shall be within the prescribed range to which a juvenile has been committed except as provided in section 532 of this act concerning offenders the department determines are eligible for the juvenile offender basic training camp program. Such dates shall be determined prior to the expiration of sixty percent of a juvenile's minimum term of confinement included within the prescribed range to which the juvenile has been committed. The secretary shall release any juvenile committed to the custody of the department within four calendar days prior to the juvenile's release date or on the release date set under this chapter ~~((PROVIDED, That))~~. Days spent in the custody of the department shall be tolled by any period of time during which a juvenile has absented himself or herself from the department's supervision without the prior approval of the secretary or the secretary's designee.

(2) The secretary shall monitor the average daily population of the state's juvenile residential facilities. When the secretary concludes that in-residence

population of residential facilities exceeds one hundred five percent of the rated bed capacity specified in statute, or in absence of such specification, as specified by the department in rule, the secretary may recommend reductions to the governor. On certification by the governor that the recommended reductions are necessary, the secretary has authority to administratively release a sufficient number of offenders to reduce in-residence population to one hundred percent of rated bed capacity. The secretary shall release those offenders who have served the greatest proportion of their sentence. However, the secretary may deny release in a particular case at the request of an offender, or if the secretary finds that there is no responsible custodian, as determined by the department, to whom to release the offender, or if the release of the offender would pose a clear danger to society. The department shall notify the committing court of the release at the ~~((end of each calendar year))~~ time of release if any such early releases have occurred ~~((during that year))~~ as a result of excessive in-residence population. In no event shall ~~((a serious))~~ an offender~~((, as defined in RCW 13.40.020(1)))~~ adjudicated of a violent offense be granted release under the provisions of this subsection.

(3) Following the juvenile's release ~~((pursuant to))~~ under subsection (1) of this section, the secretary may require the juvenile to comply with a program of parole to be administered by the department in his or her community which shall last no longer than eighteen months, except that in the case of a juvenile sentenced for rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, or indecent liberties with forcible compulsion, the period of parole shall be twenty-four months. A parole program is mandatory for offenders released under subsection (2) of this section. The secretary shall, for the period of parole, facilitate the juvenile's reintegration into his or her community and to further this goal shall require the juvenile to refrain from possessing a firearm or using a deadly weapon and refrain from committing new offenses and may require the juvenile to: (a) Undergo available medical or psychiatric treatment; (b) report as directed to a parole officer; (c) pursue a course of study or vocational training; and (d) remain within prescribed geographical boundaries and notify the department of any change in his or her address~~((; and (e) refrain from committing new offenses))~~. After termination of the parole period, the juvenile shall be discharged from the department's supervision.

(4)(a) The department may also modify parole for violation thereof. If, after affording a juvenile all of the due process rights to which he or she would be entitled if the juvenile were an adult, the secretary finds that a juvenile has violated a condition of his or her parole, the secretary shall order one of the following which is reasonably likely to effectuate the purpose of the parole and to protect the public: ~~((a))~~ (i) Continued supervision under the same conditions previously imposed; ~~((b))~~ (ii) intensified supervision with increased reporting requirements; ~~((c))~~ (iii) additional conditions of supervision authorized by this chapter; ~~((d))~~ (iv) except as provided in ~~((e))~~ (a)(v) of this subsection,

imposition of a period of confinement not to exceed thirty days in a facility operated by or pursuant to a contract with the state of Washington or any city or county for a portion of each day or for a certain number of days each week with the balance of the days or weeks spent under supervision; and ~~((e))~~ (v) the secretary may order any of the conditions or may return the offender to confinement in an institution for the remainder of the sentence range if the offense for which the offender was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined by RCW 9.94A.030.

(b) If the department finds that any juvenile in a program of parole has possessed a firearm or used a deadly weapon during the program of parole, the department shall modify the parole under (a) of this subsection and confine the juvenile for at least thirty days. Confinement shall be in a facility operated by or pursuant to a contract with the state or any county.

(5) A parole officer of the department of social and health services shall have the power to arrest a juvenile under his or her supervision on the same grounds as a law enforcement officer would be authorized to arrest ~~((sueh))~~ the person.

(6) If so requested and approved under chapter 13.06 RCW, the secretary shall permit a county or group of counties to perform functions under subsections (3) through (5) of this section.

**Sec. 528.** RCW 13.40.190 and 1987 c 281 s 5 are each amended to read as follows:

(1) In its dispositional order, the court shall require the respondent to make restitution to any persons who have suffered loss or damage as a result of the offense committed by the respondent. In addition, restitution may be ordered for loss or damage if the offender pleads guilty to a lesser offense or fewer offenses and agrees with the prosecutor's recommendation that the offender be required to pay restitution to a victim of an offense or offenses which, pursuant to a plea agreement, are not prosecuted. The payment of restitution shall be in addition to any punishment which is imposed pursuant to the other provisions of this chapter. The court may determine the amount, terms, and conditions of the restitution including a payment plan extending up to ten years if the court determines that the respondent does not have the means to make full restitution over a shorter period. Restitution may include the costs of counseling reasonably related to the offense. If the respondent participated in the crime with another person or other persons, all such participants shall be jointly and severally responsible for the payment of restitution. For the purposes of this section, the respondent shall remain under the court's jurisdiction for a maximum term of ten years after the respondent's eighteenth birthday. The court may not require the respondent to pay full or partial restitution if the respondent reasonably satisfies the court that he or she does not have the means to make full or partial restitution and could not reasonably acquire the means to pay such restitution

over a ten-year period. In cases where an offender has been committed to the department for a period of confinement exceeding fifteen weeks, restitution may be waived.

(2) If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order. The restitution to victims named in the order shall be paid prior to any payment for other penalties or monetary assessments.

(3) A respondent under obligation to pay restitution may petition the court for modification of the restitution order.

**Sec. 529.** RCW 13.40.220 and 1993 c 466 s 1 are each amended to read as follows:

(1) Whenever legal custody of a child is vested in someone other than his or her parents, under this chapter, and not vested in the department of social and health services, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum representing in whole or in part the costs of support, treatment, and confinement of the child after the decree is entered.

(2) If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against such person for contempt.

~~(3) Whenever legal custody of a child is vested in the department ((of social and health services, after due notice to)) under this chapter, the parents or other persons legally obligated to care for and support the child((, and after a hearing, the court shall order and decree that the parent or other legally obligated person shall pay for)) shall be liable for the costs of support, treatment, and confinement of the child ((after the decree is entered, following the department of social and health services)), in accordance with the department's reimbursement of cost schedule. ((The department of social and health services shall collect the debt in accordance with chapter 43.20B RCW. The department shall exempt from payment parents receiving adoption support under RCW 74.13.100 through 74.13.145, and parents eligible to receive adoption support under RCW 74.13.150.~~

~~(3) If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against such person for contempt:))~~ The department shall adopt a reimbursement of cost schedule based on the costs of providing such services, and shall determine an obligation based on the responsible parents' or other legally obligated person's ability to pay. The department is authorized to adopt additional rules as appropriate to enforce this section.

(4) To enforce subsection (3) of this section, the department shall serve on the parents or other person legally obligated to care for and support the child a notice and finding of financial responsibility requiring the parents or other legally obligated person to appear and show cause in an adjudicative proceeding why the



finding of responsibility and/or the amount thereof is incorrect and should not be ordered. This notice and finding shall relate to the costs of support, treatment, and confinement of the child in accordance with the department's reimbursement of cost schedule adopted under this section, including periodic payments to be made in the future. The hearing shall be held pursuant to chapter 34.05 RCW, the administrative procedure act, and the rules of the department.

(5) The notice and finding of financial responsibility shall be served in the same manner prescribed for the service of a summons in a civil action or may be served on the parent or legally obligated person by certified mail, return receipt requested. The receipt shall be prima facie evidence of service.

(6) If the parents or other legally obligated person objects to the notice and finding of financial responsibility, then an application for an adjudicative hearing may be filed within twenty days of the date of service of the notice. If an application for an adjudicative proceeding is filed, the presiding or reviewing officer shall determine the past liability and responsibility, if any, of the parents or other legally obligated person and shall also determine the amount of periodic payments to be made in the future. If the parents or other legally responsible person fails to file an application within twenty days, the notice and finding of financial responsibility shall become a final administrative order.

(7) Debts determined pursuant to this section are subject to collection action without further necessity of action by a presiding or reviewing officer. The department may collect the debt in accordance with RCW 43.20B.635, 43.20B.640, 74.20A.060, and 74.20A.070. The department shall exempt from payment parents receiving adoption support under RCW 74.13.100 through 74.13.145, and parents eligible to receive adoption support under RCW 74.13.150.

(8) An administrative order entered pursuant to this section shall supersede any court order entered prior to the effective date of this section.

(9) The department shall be subrogated to the right of the child and his or her parents or other legally responsible person to receive support payments for the benefit of the child from any parent or legally obligated person pursuant to a support order established by a superior court or pursuant to RCW 74.20A.055. The department's right of subrogation under this section is limited to the liability established in accordance with its cost schedule for support, treatment, and confinement, except as addressed in subsection (10) of this section.

(10) Nothing in this section precludes the department from recouping such additional support payments from the child's parents or other legally obligated person as required to qualify for receipt of federal funds. The department may adopt such rules dealing with liability for recoupment of support, treatment, or confinement costs as may become necessary to entitle the state to participate in federal funds unless such rules would be expressly prohibited by law. If any law dealing with liability for recoupment of support, treatment, or confinement costs is ruled to be in conflict with federal requirements which are a prescribed

condition of the allocation of federal funds, such conflicting law is declared to be inoperative solely to the extent of the conflict.

**Sec. 530.** RCW 13.40.300 and 1986 c 288 s 6 are each amended to read as follows:

(1) In no case may a juvenile offender be committed by the juvenile court to the department of social and health services for placement in a juvenile correctional institution beyond the juvenile offender's twenty-first birthday. A juvenile may be under the jurisdiction of the juvenile court or the authority of the department of social and health services beyond the juvenile's eighteenth birthday only if prior to the juvenile's eighteenth birthday:

(a) Proceedings are pending seeking the adjudication of a juvenile offense and the court by written order setting forth its reasons extends jurisdiction of juvenile court over the juvenile beyond his or her eighteenth birthday;

(b) The juvenile has been found guilty after a fact finding or after a plea of guilty and an automatic extension is necessary to allow for the imposition of disposition; or

(c) Disposition has been held and an automatic extension is necessary to allow for the execution and enforcement of the court's order of disposition. If an order of disposition imposes commitment to the department, then jurisdiction is automatically extended to include a period of up to twelve months of parole, in no case extending beyond the offender's twenty-first birthday.

(2) If the juvenile court previously has extended jurisdiction beyond the juvenile offender's eighteenth birthday and that period of extension has not expired, the court may further extend jurisdiction by written order setting forth its reasons.

(3) In no event may the juvenile court have authority to extend jurisdiction over any juvenile offender beyond the juvenile offender's twenty-first birthday except for the purpose of enforcing an order of restitution.

(4) Notwithstanding any extension of jurisdiction over a person pursuant to this section, the juvenile court has no jurisdiction over any offenses alleged to have been committed by a person eighteen years of age or older.

**NEW SECTION.** **Sec. 531.** The legislature finds that the number of juvenile offenders and the severity of their crimes is increasing rapidly statewide. In addition, many juvenile offenders continue to reoffend after they are released from the juvenile justice system causing disproportionately high and expensive rates of recidivism.

The legislature further finds that juvenile criminal behavior is often the result of a lack of self-discipline, the lack of systematic work habits and ethics, the inability to deal with authority figures, and an unstable or unstructured living environment. The legislature further finds that the department of social and health services currently operates an insufficient number of confinement beds to meet the rapidly growing juvenile offender population. Together these factors

are combining to produce a serious public safety hazard and the need to develop more effective and stringent juvenile punishment and rehabilitation options.

The legislature intends that juvenile offenders who enter the state rehabilitation system have the opportunity and are given the responsibility to become more effective participants in society by enhancing their personal development, work ethics, and life skills. The legislature recognizes that structured incarceration programs for juvenile offenders such as juvenile offender basic training camps, can instill the self-discipline, accountability, self-esteem, and work ethic skills that could discourage many offenders from returning to the criminal justice system. Juvenile offender basic training camp incarceration programs generally emphasize life skills training, prevocational work skills training, anger management, dealing with difficult at-home family problems and/or abuses, discipline, physical training, structured and intensive work activities, and educational classes. The legislature further recognizes that juvenile offenders can benefit from a highly structured basic training camp environment and the public can also benefit through increased public protection and reduced cost due to lowered rates of recidivism.

NEW SECTION. **Sec. 532.** A new section is added to chapter 13.40 RCW to read as follows:

(1) The department of social and health services shall establish and operate a medium security juvenile offender basic training camp program. The department shall site a juvenile offender basic training camp facility in the most cost-effective facility possible and shall review the possibility of using an existing abandoned and/or available state, federally, or military-owned site or facility.

(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. Requests for proposals from possible contractors shall not call for payment on a per diem basis.

(3) The juvenile offender basic training camp shall accommodate at least seventy offenders. The beds shall count as additions to, and not be used as replacements for, existing bed capacity at existing department of social and health services juvenile facilities.

(4) The juvenile offender basic training camp shall be a structured and regimented model lasting one hundred twenty days 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, live work, 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 adopt rules for the safe and effective operation of the juvenile offender basic training camp program, standards for an offender's successful program completion, and rules for the continued after-care supervision of offenders who have successfully completed the program.

(5) Offenders eligible for the juvenile offender basic training camp option shall be those with a disposition of at least fifty-two weeks but not more than seventy-eight weeks. Violent and sex offenders shall not be eligible for the juvenile offender basic training camp program.

(6) 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. No juvenile who 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.

(7) All juvenile offenders eligible for the juvenile offender basic training camp sentencing option shall spend the first one hundred twenty days of their disposition in a juvenile offender basic training camp. 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 rules adopted 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.

(8) All offenders who successfully graduate from the one hundred twenty day juvenile offender basic training camp program shall spend the remainder of their disposition on parole in a division of juvenile rehabilitation intensive aftercare program in the local community. 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.

(9) 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. The department shall produce an outcome evaluation report on the progress of the juvenile offender basic training camp program to the appropriate committees of the legislature no later than December 12, 1996.

NEW SECTION. Sec. 533. A new section is added to chapter 9.94A RCW to read as follows:

The department is authorized to determine whether any person subject to the confines of a correctional facility would substantially benefit from successful participation in: (1) Literacy training, (2) employment skills training, or (3) educational efforts to identify and control sources of anger and, upon a determination that the person would, may require such successful participation as a condition for eligibility to obtain early release from the confines of a correctional facility.

The department shall adopt rules and procedures to administer this section.

Sec. 534. RCW 72.09.111 and 1993 sp.s. c 20 s 2 are each amended to read as follows:

(1) The secretary shall deduct from the gross wages or gratuities of each inmate working in ~~((class I or class II))~~ correctional industries work programs, ~~((or of any inmate earning more than the state minimum wage, other than an inmate under the jurisdiction of the division of community corrections,))~~ taxes and legal financial obligations. ~~((Following the deductions for legal financial obligations and taxes, deductions from the remaining wages or gratuities shall be))~~ The secretary shall develop a formula for the distribution of offender wages and gratuities.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

~~((a) Ten))~~ (i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

~~((b))~~ (ii) Ten percent to a department personal inmate savings account ~~((until such account has a balance of at least nine hundred fifty dollars));~~ and

~~((c) Thirty))~~ (iii) Twenty percent to the department to contribute to the cost of incarceration.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the public safety and education account for the purpose of crime victims' compensation;

(ii) Ten percent to a department personal inmate savings account; and

(iii) Fifteen percent to the department to contribute to the cost of incarceration.

(c) The formula shall include the following minimum deduction from class IV gross gratuities: Five percent to the department to contribute to the cost of incarceration.

(d) The formula shall include the following minimum deductions from class III gratuities: Five percent for the purpose of crime victims' compensation.

Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW shall be exempt from the requirement under (a)(ii) or (b)(ii) of this subsection~~((but shall have a forty percent deduction taken under (c) of this subsection))~~.

The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the time of his or her release from confinement~~((Once the department personal inmate savings account for an inmate has a balance of at least nine hundred fifty dollars, the ten percent deduction shall continue to be taken and be used to contribute to the cost of incarceration))~~, unless the secretary determines that an emergency exists for the inmate, at which time the funds can be made available to the inmate in an amount determined by the secretary. The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

In the event that the offender worker's wages or gratuity is subject to garnishment for support enforcement, the crime victims' compensation, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(2) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.

(3) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration ~~((under subsection (1)(c) of this section))~~ shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs until December 31, 2000, and thereafter all such funds shall be deposited in the general fund.

(4) The expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(a) Not later than June 30, 1995, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(b) Not later than June 30, 1996, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class

II correctional industries work programs above the number so employed on June 30, 1994;

(c) Not later than June 30, 1997, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(d) Not later than June 30, 1998, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(e) Not later than June 30, 1999, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994;

(f) Not later than June 30, 2000, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 1994.

(5) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

**Sec. 535.** RCW 72.09.070 and 1993 sp.s. c 20 s 3 are each amended to read as follows:

(1) There is created a correctional industries board of directors which shall have the composition provided in RCW 72.09.080.

(2) Consistent with general department of corrections policies and procedures pertaining to the general administration of correctional facilities, the board shall establish and implement policy for correctional industries programs designed to:

(a) Offer inmates meaningful employment, work experience, and training in vocations that are specifically designed to reduce recidivism and thereby enhance public safety by providing opportunities for legitimate means of livelihood upon their release from custody;

(b) Provide industries which will reduce the tax burden of corrections and save taxpayers money through production of goods and services for sale and use;

(c) Operate correctional work programs in an effective and efficient manner which are as similar as possible to those provided by the private sector;

(d) Encourage the development of and provide for selection of, contracting for, and supervision of work programs with participating private enterprise firms;

(e) Develop and design correctional industries work programs;

(f) Invest available funds in correctional industries enterprises and meaningful work programs that minimize the impact on in-state jobs and businesses.

(3) The board of directors shall at least annually review the work performance of the director of correctional industries division with the secretary.

(4) The director of correctional industries division shall review and evaluate the productivity, funding, and appropriateness of all correctional work programs and report on their effectiveness to the board and to the secretary.

(5) The board of directors shall have the authority to identify and establish trade advisory or apprenticeship committees to advise them on correctional industries work programs. The secretary shall appoint the members of the committees.

Where a labor management trade advisory and apprenticeship committee has already been established by the department pursuant to RCW 72.62.050 the existing committee shall also advise the board of directors.

(6) The board shall develop a strategic yearly marketing plan that shall be consistent with and work towards achieving the goals established in the six-year phased expansion of class I and class II correctional industries established in RCW 72.09.111. This marketing plan shall be presented to the appropriate committees of the legislature by January 17 of each calendar year until the goals set forth in RCW 72.09.111 are achieved.

NEW SECTION. Sec. 536. Section 534 of this act shall take effect June 30, 1994.

Sec. 537. RCW 26.12.010 and 1991 c 367 s 11 are each amended to read as follows:

(1) Each superior court shall exercise the jurisdiction conferred by this chapter and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." A family law proceeding under this chapter is any proceeding under this title or any proceeding in which the family court is requested to adjudicate or enforce the rights of the parties or their children regarding the determination or modification of parenting plans, child custody, visitation, or support, or the distribution of property or obligations.

(2) Superior court judges of a county may by majority vote, grant to the family court the power, authority, and jurisdiction, concurrent with the juvenile court, to hear and decide cases under Title 13 RCW.

Sec. 538. RCW 13.04.021 and 1988 c 232 s 3 are each amended to read as follows:

(1) The juvenile court shall be a division of the superior court. In judicial districts having more than one judge of the superior court, the judges of such court shall annually assign one or more of their number to the juvenile court division. In any judicial district having a court commissioner, the court commissioner shall have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear all cases under this chapter and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050. In any judicial district having a family law commissioner appointed pursuant to chapter 26.12 RCW, the family law commissioner shall



have the power, authority, and jurisdiction, concurrent with a juvenile court judge, to hear cases under chapter 13.34 RCW or any other case under Title 13 RCW as provided in RCW 26.12.010, and to enter judgment and make orders with the same power, force, and effect as any judge of the juvenile court, subject to motion or demand by any party within ten days from the entry of the order or judgment by the court commissioner as provided in RCW 2.24.050.

(2) Cases in the juvenile court shall be tried without a jury.

**Sec. 539.** RCW 72.76.010 and 1989 c 177 s 3 are each amended to read as follows:

The Washington intrastate corrections compact is enacted and entered into on behalf of this state by the department with any and all counties of this state legally joining in a form substantially as follows:

#### WASHINGTON INTRASTATE CORRECTIONS COMPACT

A compact is entered into by and among the contracting counties and the department of corrections, signatories hereto, for the purpose of maximizing the use of existing resources and to provide adequate facilities and programs for the confinement, care, treatment, and employment of offenders.

The contracting counties and the department do solemnly agree that:

(1) As used in this compact, unless the context clearly requires otherwise:

(a) "Department" means the Washington state department of corrections.

(b) "Secretary" means the secretary of the department of corrections or designee.

(c) "Compact jurisdiction" means the department of corrections or any county of the state of Washington which has executed this compact.

(d) "Sending jurisdiction" means a county party to this agreement or the department of corrections to whom the courts have committed custody of the offender.

(e) "Receiving jurisdiction" means the department of corrections or a county party to this agreement to which an offender is sent for confinement.

(f) "Offender" means a person who has been charged with and/or convicted of an offense established by applicable statute or ordinance.

(g) "Convicted felony offender" means a person who has been convicted of a felony established by state law and is eighteen years of age or older, or who is less than eighteen years of age, but whose case has been transferred by the appropriate juvenile court to a criminal court pursuant to RCW 13.40.110 or has been tried in a criminal court pursuant to RCW 13.04.030(1)(e)(iv).

(h) An "offender day" includes the first day an offender is delivered to the receiving jurisdiction, but ends at midnight of the day immediately preceding the day of the offender's release or return to the custody of the sending jurisdiction.

(i) "Facility" means any state correctional institution, camp, or other unit established or authorized by law under the jurisdiction of the department of corrections; any jail, holding, detention, special detention, or correctional facility

operated by the county for the housing of adult offenders; or any contract facility, operated on behalf of either the county or the state for the housing of adult offenders.

(j) "Extraordinary medical expense" means any medical expense beyond that which is normally provided by contract or other health care providers at the facility of the receiving jurisdiction.

(k) "Compact" means the Washington intrastate corrections compact.

(2)(a) Any county may make one or more contracts with one or more counties, the department, or both for the exchange or transfer of offenders pursuant to this compact. Appropriate action by ordinance, resolution, or otherwise in accordance with the law of the governing bodies of the participating counties shall be necessary before the contract may take effect. The secretary is authorized and requested to execute the contracts on behalf of the department. Any such contract shall provide for:

(i) Its duration;

(ii) Payments to be made to the receiving jurisdiction by the sending jurisdiction for offender maintenance, extraordinary medical and dental expenses, and any participation in or receipt by offenders of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance;

(iii) Participation in programs of offender employment, if any; the disposition or crediting of any payments received by offenders on their accounts; and the crediting of proceeds from or the disposal of any products resulting from the employment;

(iv) Delivery and retaking of offenders;

(v) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving jurisdictions.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant to the contract. Nothing in any contract may be inconsistent with the compact.

(3)(a) Whenever the duly constituted authorities of any compact jurisdiction decide that confinement in, or transfer of an offender to a facility of another compact jurisdiction is necessary or desirable in order to provide adequate housing and care or an appropriate program of rehabilitation or treatment, the officials may direct that the confinement be within a facility of the other compact jurisdiction, the receiving jurisdiction to act in that regard solely as agent for the sending jurisdiction.

(b) The receiving jurisdiction shall be responsible for the supervision of all offenders which it accepts into its custody.

(c) The receiving jurisdiction shall be responsible to establish screening criteria for offenders it will accept for transfer. The sending jurisdiction shall be responsible for ensuring that all transferred offenders meet the screening criteria of the receiving jurisdiction.

(d) The sending jurisdiction shall notify the sentencing courts of the name, charges, cause numbers, date, and place of transfer of any offender, prior to the transfer, on a form to be provided by the department. A copy of this form shall accompany the offender at the time of transfer.

(e) The receiving jurisdiction shall be responsible for providing an orientation to each offender who is transferred. The orientation shall be provided to offenders upon arrival and shall address the following conditions at the facility of the receiving jurisdiction:

- (i) Requirements to work;
- (ii) Facility rules and disciplinary procedures;
- (iii) Medical care availability; and
- (iv) Visiting.

(f) Delivery and retaking of inmates shall be the responsibility of the sending jurisdiction. The sending jurisdiction shall deliver offenders to the facility of the receiving jurisdiction where the offender will be housed, at the dates and times specified by the receiving jurisdiction. The receiving jurisdiction retains the right to refuse or return any offender. The sending jurisdiction shall be responsible to retake any transferred offender who does not meet the screening criteria of the receiving jurisdiction, or who is refused by the receiving jurisdiction. If the receiving jurisdiction has notified the sending jurisdiction to retake an offender, but the sending jurisdiction does not do so within a seven-day period, the receiving jurisdiction may return the offender to the sending jurisdiction at the expense of the sending jurisdiction.

(g) Offenders confined in a facility under the terms of this compact shall at all times be subject to the jurisdiction of the sending jurisdiction and may at any time be removed from the facility for transfer to another facility within the sending jurisdiction, for transfer to another facility in which the sending jurisdiction may have a contractual or other right to confine offenders, for release or discharge, or for any other purpose permitted by the laws of the state of Washington.

(h) Unless otherwise agreed, the sending jurisdiction shall provide at least one set of the offender's personal clothing at the time of transfer. The sending jurisdiction shall be responsible for searching the clothing to ensure that it is free of contraband. The receiving jurisdiction shall be responsible for providing work clothing and equipment appropriate to the offender's assignment.

(i) The sending jurisdiction shall remain responsible for the storage of the offender's personal property, unless prior arrangements are made with the receiving jurisdiction. The receiving jurisdiction shall provide a list of allowable items which may be transferred with the offender.

(j) Copies or summaries of records relating to medical needs, behavior, and classification of the offender shall be transferred by the sending jurisdiction to the receiving jurisdiction at the time of transfer. At a minimum, such records shall include:

(i) A copy of the commitment order or orders legally authorizing the confinement of the offender;

(ii) A copy of the form for the notification of the sentencing courts required by subsection (3)(d) of this section;

(iii) A brief summary of any known criminal history, medical needs, behavioral problems, and other information which may be relevant to the classification of the offender; and

(iv) A standard identification card which includes the fingerprints and at least one photograph of the offender.

Disclosure of public records shall be the responsibility of the sending jurisdiction, except for those documents generated by the receiving jurisdiction.

(k) The receiving jurisdiction shall be responsible for providing regular medical care, including prescription medication, but extraordinary medical expenses shall be the responsibility of the sending jurisdiction. The costs of extraordinary medical care incurred by the receiving jurisdiction for transferred offenders shall be reimbursed by the sending jurisdiction. The receiving jurisdiction shall notify the sending jurisdiction as far in advance as practicable prior to incurring such costs. In the event emergency medical care is needed, the sending jurisdiction shall be advised as soon as practicable after the offender is treated. Offenders who are required by the medical authority of the sending jurisdiction to take prescription medication at the time of the transfer shall have at least a three-day supply of the medication transferred to the receiving jurisdiction with the offender, and at the expense of the sending jurisdiction. Costs of prescription medication incurred after the use of the supply shall be borne by the receiving jurisdiction.

(l) Convicted offenders transferred under this agreement may be required by the receiving jurisdiction to work. Transferred offenders participating in programs of offender employment shall receive the same reimbursement, if any, as other offenders performing similar work. The receiving jurisdiction shall be responsible for the disposition or crediting of any payments received by offenders, and for crediting the proceeds from or disposal of any products resulting from the employment. Other programs normally provided to offenders by the receiving jurisdiction such as education, mental health, or substance abuse treatment shall also be available to transferred offenders, provided that usual program screening criteria are met. No special or additional programs will be provided except by mutual agreement of the sending and receiving jurisdiction, with additional expenses, if any, to be borne by the sending jurisdiction.

(m) The receiving jurisdiction shall notify offenders upon arrival of the rules of the jurisdiction and the specific rules of the facility. Offenders will be required to follow all rules of the receiving jurisdiction. Disciplinary detention, if necessary, shall be provided at the discretion of the receiving jurisdiction. The receiving jurisdiction may require the sending jurisdiction to retake any offender found guilty of a serious infraction; similarly, the receiving jurisdiction may

require the sending jurisdiction to retake any offender whose behavior requires segregated or protective housing.

(n) Good-time calculations and notification of each offender's release date shall be the responsibility of the sending jurisdiction. The sending jurisdiction shall provide the receiving jurisdiction with a formal notice of the date upon which each offender is to be released from custody. If the receiving jurisdiction finds an offender guilty of a violation of its disciplinary rules, it shall notify the sending jurisdiction of the date and nature of the violation. If the sending jurisdiction resets the release date according to its good-time policies, it shall provide the receiving jurisdiction with notice of the new release date.

(o) The sending jurisdiction shall retake the offender at the receiving jurisdiction's facility on or before his or her release date, unless the sending and receiving jurisdictions shall agree upon release in some other place. The sending jurisdiction shall bear the transportation costs of the return.

(p) Each receiving jurisdiction shall provide monthly reports to each sending jurisdiction on the number of offenders of that sending jurisdiction in its facilities pursuant to this compact.

(q) Each party jurisdiction shall notify the others of its coordinator who is responsible for administrating the jurisdiction's responsibilities under the compact. The coordinators shall arrange for alternate contact persons in the event of an extended absence of the coordinator.

(r) Upon reasonable notice, representatives of any party to this compact shall be allowed to visit any facility in which another party has agreed to house its offenders, for the purpose of inspecting the facilities and visiting its offenders that may be confined in the institution.

(4) This compact shall enter into force and become effective and binding upon the participating parties when it has been executed by two or more parties. Upon request, each party county shall provide any other compact jurisdiction with a copy of a duly enacted resolution or ordinance authorizing entry into this compact.

(5) A party participating may withdraw from the compact by formal resolution and by written notice to all other parties then participating. The withdrawal shall become effective, as it pertains to the party wishing to withdraw, thirty days after written notice to the other parties. However, such withdrawal shall not relieve the withdrawing party from its obligations assumed prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing participant shall notify the other parties to retake the offenders it has housed in its facilities and shall remove to its facilities, at its own expense, offenders it has confined under the provisions of this compact.

(6) Legal costs relating to defending actions brought by an offender challenging his or her transfer to another jurisdiction under this compact shall be borne by the sending jurisdiction. Legal costs relating to defending actions arising from events which occur while the offender is in the custody of a receiving jurisdiction shall be borne by the receiving jurisdiction.

(7) The receiving jurisdiction shall not be responsible to provide legal services to offenders placed under this agreement. Requests for legal services shall be referred to the sending jurisdiction.

(8) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution or laws of the state of Washington or is held invalid, the validity of the remainder of this compact and its applicability to any county or the department shall not be affected.

(9) Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a county or the department may have with each other or with a nonparty county for the confinement, rehabilitation, or treatment of offenders.

**NEW SECTION.** Sec. 540. Provisions governing exceptions to juvenile court jurisdiction in the amendments to RCW 13.04.030 contained in section 519 of this act shall apply to serious violent and violent offenses committed on or after the effective date of section 519 of this act. The criminal history which may result in loss of juvenile court jurisdiction upon the alleged commission of a serious violent or violent offense may have been acquired on, before, or after the effective date of section 519 of this act.

**Sec. 541.** RCW 13.50.010 and 1993 c 374 s 1 are each amended to read as follows:

(1) For purposes of this chapter:

(a) "Juvenile justice or care agency" means any of the following: Police, diversion units, court, prosecuting attorney, defense attorney, detention center, attorney general, the department of social and health services and its contracting agencies, schools; and, in addition, persons or public or private agencies having children committed to their custody;

(b) "Official juvenile court file" means the legal file of the juvenile court containing the petition or information, motions, memorandums, briefs, findings of the court, and court orders;

(c) "Social file" means the juvenile court file containing the records and reports of the probation counselor;

(d) "Records" means the official juvenile court file, the social file, and records of any other juvenile justice or care agency in the case.

(2) Each petition or information filed with the court may include only one juvenile and each petition or information shall be filed under a separate docket number. The social file shall be filed separately from the official juvenile court file.

(3) It is the duty of any juvenile justice or care agency to maintain accurate records. To this end:

(a) The agency may never knowingly record inaccurate information. Any information in records maintained by the department of social and health services relating to a petition filed pursuant to chapter 13.34 RCW that is found by the

court, upon proof presented, to be false or inaccurate shall be corrected or expunged from such records by the agency;

(b) An agency shall take reasonable steps to (~~insure~~) assure the security of its records and prevent tampering with them; and

(c) An agency shall make reasonable efforts to insure the completeness of its records, including action taken by other agencies with respect to matters in its files.

(4) Each juvenile justice or care agency shall implement procedures consistent with the provisions of this chapter to facilitate inquiries concerning records.

(5) Any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency and who has been denied access to those records by the agency may make a motion to the court for an order authorizing that person to inspect the juvenile justice or care agency record concerning that person. The court shall grant the motion to examine records unless it finds that in the interests of justice or in the best interests of the juvenile the records or parts of them should remain confidential.

(6) A juvenile, or his or her parents, or any person who has reasonable cause to believe information concerning that person is included in the records of a juvenile justice or care agency may make a motion to the court challenging the accuracy of any information concerning the moving party in the record or challenging the continued possession of the record by the agency. If the court grants the motion, it shall order the record or information to be corrected or destroyed.

(7) The person making a motion under subsection (5) or (6) of this section shall give reasonable notice of the motion to all parties to the original action and to any agency whose records will be affected by the motion.

(8) The court may permit inspection of records by, or release of information to, any clinic, hospital, or agency which has the subject person under care or treatment(~~(- or to)~~). The court may also permit inspection by or release to individuals or agencies, including juvenile justice advisory committees of county law and justice councils, engaged in legitimate research for educational, scientific, or public purposes. The court may also permit inspection of, or release of information from, records which have been sealed pursuant to RCW 13.50.050(11). Access to records or information for research purposes shall be permitted only if the anonymity of all persons mentioned in the records or information will be preserved. Each person granted permission to inspect juvenile justice or care agency records for research purposes shall present a notarized statement to the court stating that the names of juveniles and parents will remain confidential.

(9) Juvenile detention facilities shall release records to the juvenile disposition standards commission under RCW 13.40.025 upon request. The commission shall not disclose the names of any juveniles or parents mentioned in the records without the named individual's written permission.

**Sec. 542.** RCW 72.09.300 and 1993 sp.s. c 21 s 8 are each amended to read as follows:

(1) Every county legislative authority shall by resolution or ordinance establish a local law and justice council. The county legislative authority shall determine the size and composition of the council, which shall include the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections. Officials designated may appoint representatives.

(2) A combination of counties may establish a local law and justice council by intergovernmental agreement. The agreement shall comply with the requirements of this section.

(3) The local law and justice council shall develop a local law and justice plan for the county. The council shall design the elements and scope of the plan, subject to final approval by the county legislative authority. The general intent of the plan shall include seeking means to maximize local resources including personnel and facilities, reduce duplication of services, and share resources between local and state government in order to accomplish local efficiencies without diminishing effectiveness. The plan shall also include a section on jail management. This section may include the following elements:

(a) A description of current jail conditions, including whether the jail is overcrowded;

(b) A description of potential alternatives to incarceration;

(c) A description of current jail resources;

(d) A description of the jail population as it presently exists and how it is projected to change in the future;

(e) A description of projected future resource requirements;

(f) A proposed action plan, which shall include recommendations to maximize resources, maximize the use of intermediate sanctions, minimize overcrowding, avoid duplication of services, and effectively manage the jail and the offender population;

(g) A list of proposed advisory jail standards and methods to effect periodic quality assurance inspections of the jail;

(h) A proposed plan to collect, synthesize, and disseminate technical information concerning local criminal justice activities, facilities, and procedures;

(i) A description of existing and potential services for offenders including employment services, substance abuse treatment, mental health services, and housing referral services.

(4) The council may propose other elements of the plan, which shall be subject to review and approval by the county legislative authority, prior to their inclusion into the plan.



(5) The county legislative authority may request technical assistance in developing or implementing the plan from other units or agencies of state or local government, which shall include the department, the office of financial management, and the Washington association of sheriffs and police chiefs.

(6) Upon receiving a request for assistance from a county, the department may provide the requested assistance.

(7) The secretary may adopt rules for the submittal, review, and approval of all requests for assistance made to the department. The secretary may also appoint an advisory committee of local and state government officials to recommend policies and procedures relating to the state and local correctional systems and to assist the department in providing technical assistance to local governments. The committee shall include representatives of the county sheriffs, the police chiefs, the county prosecuting attorneys, the county and city legislative authorities, and the jail administrators. The secretary may contract with other state and local agencies and provide funding in order to provide the assistance requested by counties.

(8) The department shall establish a base level of state correctional services, which shall be determined and distributed in a consistent manner state-wide. The department's contributions to any local government, approved pursuant to this section, shall not operate to reduce this base level of services.

(9) The council shall establish an advisory committee on juvenile justice proportionality. The council shall appoint the county juvenile court administrator and at least five citizens as advisory committee members. The citizen advisory committee members shall be representative of the county's ethnic and geographic diversity. The advisory committee members shall serve two-year terms and may be reappointed. The duties of the advisory committee include:

(a) Monitoring and reporting to the juvenile disposition standards commission on the proportionality, effectiveness, and cultural relevance of:

(i) The rehabilitative services offered by county and state institutions to juvenile offenders; and

(ii) The rehabilitative services offered in conjunction with diversions, deferred dispositions, community supervision, and parole;

(b) Reviewing citizen complaints regarding bias or disproportionality in that county's juvenile justice system;

(c) By September 1 of each year, beginning with 1995, submit to the juvenile disposition standards commission a report summarizing the advisory committee's findings under (a) and (b) of this subsection.

**Sec. 543.** RCW 13.40.070 and 1992 c 205 s 107 are each amended to read as follows:

(1) Complaints referred to the juvenile court alleging the commission of an offense shall be referred directly to the prosecutor. The prosecutor, upon receipt of a complaint, shall screen the complaint to determine whether:

(a) The alleged facts bring the case within the jurisdiction of the court; and

(b) On a basis of available evidence there is probable cause to believe that the juvenile did commit the offense.

(2) If the identical alleged acts constitute an offense under both the law of this state and an ordinance of any city or county of this state, state law shall govern the prosecutor's screening and charging decision for both filed and diverted cases.

(3) If the requirements of subsections (1) (a) and (b) of this section are met, the prosecutor shall either file an information in juvenile court or divert the case, as set forth in subsections (5), (6), and (7) of this section. If the prosecutor finds that the requirements of subsection (1) (a) and (b) of this section are not met, the prosecutor shall maintain a record, for one year, of such decision and the reasons therefor. In lieu of filing an information or diverting an offense a prosecutor may file a motion to modify community supervision where such offense constitutes a violation of community supervision.

(4) An information shall be a plain, concise, and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney and conform to chapter 10.37 RCW.

(5) Where a case is legally sufficient, the prosecutor shall file an information with the juvenile court if:

(a) An alleged offender is accused of a class A felony, a class B felony, an attempt to commit a class B felony, a class C felony listed in RCW 9.94A.440(2) as a crime against persons or listed in RCW 9A.46.060 as a crime of harassment, a class C felony that is a violation of RCW 9.41.080 or 9.41.040(1)(e), or any other offense listed in RCW 13.40.020(1) (b) or (c); or

(b) An alleged offender is accused of a felony and has a criminal history of ~~((at least one class A or class B felony, or two class C felonies))~~ any felony, or at least two gross misdemeanors, or at least two misdemeanors ~~((and one additional misdemeanor or gross misdemeanor, or at least one class C felony and one misdemeanor or gross misdemeanor));~~ or

(c) An alleged offender has previously been committed to the department; or

(d) An alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion; or

(e) An alleged offender has ~~((three))~~ two or more diversion~~((s))~~ contracts on the alleged offender's criminal history; or

(f) A special allegation has been filed that the offender or an accomplice was armed with a firearm when the offense was committed.

(6) Where a case is legally sufficient the prosecutor shall divert the case if the alleged offense is a misdemeanor or gross misdemeanor or violation and the alleged ~~((offense(s) in combination with the alleged offender's criminal history do not exceed two offenses or violations and do not include any felonies: PROVIDED, That))~~ offense is the offender's first offense or violation. If the alleged offender is charged with a related offense that must or may be filed

under subsections (5) and (7) of this section, a case under this subsection may also be filed.

(7) Where a case is legally sufficient and falls into neither subsection (5) nor (6) of this section, it may be filed or diverted. In deciding whether to file or divert an offense under this section the prosecutor shall be guided only by the length, seriousness, and recency of the alleged offender's criminal history and the circumstances surrounding the commission of the alleged offense.

(8) Whenever a juvenile is placed in custody or, where not placed in custody, referred to a diversionary interview, the parent or legal guardian of the juvenile shall be notified as soon as possible concerning the allegation made against the juvenile and the current status of the juvenile. Where a case involves victims of crimes against persons or victims whose property has not been recovered at the time a juvenile is referred to a diversionary unit, the victim shall be notified of the referral and informed how to contact the unit.

(9) The responsibilities of the prosecutor under subsections (1) through (8) of this section may be performed by a juvenile court probation counselor for any complaint referred to the court alleging the commission of an offense which would not be a felony if committed by an adult, if the prosecutor has given sufficient written notice to the juvenile court that the prosecutor will not review such complaints.

(10) The prosecutor, juvenile court probation counselor, or diversion unit may, in exercising their authority under this section or RCW 13.40.080, refer juveniles to mediation or victim offender reconciliation programs. Such mediation or victim offender reconciliation programs shall be voluntary for victims.

**Sec. 544.** RCW 13.40.080 and 1992 c 205 s 108 are each amended to read as follows:

(1) A diversion agreement shall be a contract between a juvenile accused of an offense and a diversionary unit whereby the juvenile agrees to fulfill certain conditions in lieu of prosecution. Such agreements may be entered into only after the prosecutor, or probation counselor pursuant to this chapter, has determined that probable cause exists to believe that a crime has been committed and that the juvenile committed it. Such agreements shall be entered into as expeditiously as possible.

(2) A diversion agreement shall be limited to one or more of the following:

(a) Community service not to exceed one hundred fifty hours, not to be performed during school hours if the juvenile is attending school;

(b) Restitution limited to the amount of actual loss incurred by the victim, and to an amount the juvenile has the means or potential means to pay;

(c) Attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions at a community agency(~~(= PROVIDED, That)~~). The educational or informational sessions may include sessions relating to respect for self, others, and authority; victim awareness; accountability; self-worth; responsibility; work ethics; good citizenship; and life skills. For purposes

of this section, "community agency" may also mean a community-based nonprofit organization, if approved by the diversion unit. The state shall not be liable for costs resulting from the diversionary unit exercising the option to permit diversion agreements to mandate attendance at up to ten hours of counseling and/or up to twenty hours of educational or informational sessions;  
~~((and))~~

(d) A fine, not to exceed one hundred dollars. In determining the amount of the fine, the diversion unit shall consider only the juvenile's financial resources and whether the juvenile has the means to pay the fine. The diversion unit shall not consider the financial resources of the juvenile's parents, guardian, or custodian in determining the fine to be imposed; and

(e) Requirements to remain during specified hours at home, school, or work, and restrictions on leaving or entering specified geographical areas.

(3) In assessing periods of community service to be performed and restitution to be paid by a juvenile who has entered into a diversion agreement, the court officer to whom this task is assigned shall consult with the juvenile's custodial parent or parents or guardian and victims who have contacted the diversionary unit and, to the extent possible, involve members of the community. Such members of the community shall meet with the juvenile and advise the court officer as to the terms of the diversion agreement and shall supervise the juvenile in carrying out its terms.

(4) A diversion agreement may not exceed a period of six months and may include a period extending beyond the eighteenth birthday of the diverttee. Any restitution assessed during its term may not exceed an amount which the juvenile could be reasonably expected to pay during this period. If additional time is necessary for the juvenile to complete restitution to the victim, the time period limitations of this subsection may be extended by an additional six months.

(5) The juvenile shall retain the right to be referred to the court at any time prior to the signing of the diversion agreement.

(6) Diverttees and potential diverttees shall be afforded due process in all contacts with a diversionary unit regardless of whether the juveniles are accepted for diversion or whether the diversion program is successfully completed. Such due process shall include, but not be limited to, the following:

(a) A written diversion agreement shall be executed stating all conditions in clearly understandable language;

(b) Violation of the terms of the agreement shall be the only grounds for termination;

(c) No diverttee may be terminated from a diversion program without being given a court hearing, which hearing shall be preceded by:

(i) Written notice of alleged violations of the conditions of the diversion program; and

(ii) Disclosure of all evidence to be offered against the diverttee;

(d) The hearing shall be conducted by the juvenile court and shall include:

(i) Opportunity to be heard in person and to present evidence;

(ii) The right to confront and cross-examine all adverse witnesses;  
 (iii) A written statement by the court as to the evidence relied on and the reasons for termination, should that be the decision; and

(iv) Demonstration by evidence that the divertee has substantially violated the terms of his or her diversion agreement.

(e) The prosecutor may file an information on the offense for which the divertee was diverted:

(i) In juvenile court if the divertee is under eighteen years of age; or

(ii) In superior court or the appropriate court of limited jurisdiction if the divertee is eighteen years of age or older.

(7) The diversion unit shall, subject to available funds, be responsible for providing interpreters when juveniles need interpreters to effectively communicate during diversion unit hearings or negotiations.

(8) The diversion unit shall be responsible for advising a divertee of his or her rights as provided in this chapter.

(9) The diversion unit may refer a juvenile to community-based counseling or treatment programs.

(10) The right to counsel shall inure prior to the initial interview for purposes of advising the juvenile as to whether he or she desires to participate in the diversion process or to appear in the juvenile court. The juvenile may be represented by counsel at any critical stage of the diversion process, including intake interviews and termination hearings. The juvenile shall be fully advised at the intake of his or her right to an attorney and of the relevant services an attorney can provide. For the purpose of this section, intake interviews mean all interviews regarding the diversion agreement process.

The juvenile shall be advised that a diversion agreement shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the diversionary unit together with the diversion agreement, and a copy of both documents shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language.

(11) When a juvenile enters into a diversion agreement, the juvenile court may receive only the following information for dispositional purposes:

(a) The fact that a charge or charges were made;

(b) The fact that a diversion agreement was entered into;

(c) The juvenile's obligations under such agreement;

(d) Whether the alleged offender performed his or her obligations under such agreement; and

(e) The facts of the alleged offense.

(12) A diversionary unit may refuse to enter into a diversion agreement with a juvenile. When a diversionary unit refuses to enter a diversion agreement with a juvenile, it shall immediately refer such juvenile to the court for action and

shall forward to the court the criminal complaint and a detailed statement of its reasons for refusing to enter into a diversion agreement. The diversionary unit shall also immediately refer the case to the prosecuting attorney for action if such juvenile violates the terms of the diversion agreement.

(13) A diversionary unit may, in instances where it determines that the act or omission of an act for which a juvenile has been referred to it involved no victim, or where it determines that the juvenile referred to it has no prior criminal history and is alleged to have committed an illegal act involving no threat of or instance of actual physical harm and involving not more than fifty dollars in property loss or damage and that there is no loss outstanding to the person or firm suffering such damage or loss, counsel and release or release such a juvenile without entering into a diversion agreement. A diversion unit's authority to counsel and release a juvenile under this subsection shall include the authority to refer the juvenile to community-based counseling or treatment programs. Any juvenile released under this subsection shall be advised that the act or omission of any act for which he or she had been referred shall constitute a part of the juvenile's criminal history as defined by RCW 13.40.020(9) (~~as now or hereafter amended~~). A signed acknowledgment of such advisement shall be obtained from the juvenile, and the document shall be maintained by the unit, and a copy of the document shall be delivered to the prosecutor if requested by the prosecutor. The supreme court shall promulgate rules setting forth the content of such advisement in simple language. A juvenile determined to be eligible by a diversionary unit for release as provided in this subsection shall retain the same right to counsel and right to have his or her case referred to the court for formal action as any other juvenile referred to the unit.

(14) A diversion unit may supervise the fulfillment of a diversion agreement entered into before the juvenile's eighteenth birthday and which includes a period extending beyond the divertee's eighteenth birthday.

(15) If a fine required by a diversion agreement cannot reasonably be paid due to a change of circumstance, the diversion agreement may be modified at the request of the divertee and with the concurrence of the diversion unit to convert an unpaid fine into community service. The modification of the diversion agreement shall be in writing and signed by the divertee and the diversion unit. The number of hours of community service in lieu of a monetary penalty shall be converted at the rate of the prevailing state minimum wage per hour.

(16) Fines imposed under this section shall be collected and paid into the county general fund in accordance with procedures established by the juvenile court administrator under RCW 13.04.040 and may be used only for juvenile services. In the expenditure of funds for juvenile services, there shall be a maintenance of effort whereby counties exhaust existing resources before using amounts collected under this section.

NEW SECTION. Sec. 545. A new section is added to chapter 13.40 RCW to read as follows:

(1) Upon motion at least fourteen days before commencement of trial, the juvenile court has the power, after consulting the juvenile's custodial parent or parents or guardian and with the consent of the juvenile, to continue the case for a period not to exceed one year from the date of entry of the plea or finding of guilt. The court may continue the case for an additional one-year period for good cause.

(2) Any juvenile granted a deferral of adjudication under this section shall be placed under community supervision. The court may impose any conditions of supervision that it deems appropriate. Payment of restitution, as provided in RCW 13.40.190 shall also be a condition of community supervision under this section.

(3) Upon full compliance with such conditions of supervision, the court shall dismiss the case with prejudice.

(4) If the juvenile fails to comply with the terms of supervision, the court shall enter an order of adjudication and proceed to disposition. The juvenile's lack of compliance shall be determined by the judge upon written motion by the prosecutor or the juvenile's juvenile court community supervision counselor. The state shall bear the burden to prove by a preponderance of the evidence that the juvenile has failed to comply with the terms of community supervision.

(5) If the juvenile agrees to a deferral of adjudication, the juvenile shall waive all rights:

(a) To a speedy trial and disposition;  
(b) To call and confront witnesses; and  
(c) To a hearing on the record. The adjudicatory hearing shall be limited to a reading of the court's record.

(6) A juvenile is not eligible for a deferred adjudication if:

(a) The juvenile's current offense is a sex or violent offense;  
(b) The juvenile's criminal history includes any felony;  
(c) The juvenile has a prior deferred adjudication; or  
(d) The juvenile has had more than two diversions.

**NEW SECTION. Sec. 546.** A new section is added to chapter 13.40 RCW to read as follows:

Prosecutors shall develop prosecutorial filing standards. The standards shall be developed considering the recommendations contained in the January 1993 final report concerning racial disproportionality in the juvenile justice system which was conducted pursuant to section 2, chapter 234, Laws of 1991. The standards are intended for the guidance of prosecutors in the state of Washington. They are not intended to, do not, and may not be relied upon to create a right or benefit, substantive or procedural, enforceable at law by a party in litigation with the state.

## PART VI. EDUCATION

**NEW SECTION. Sec. 601.** (1) To the extent funding is available, by December 31, 1994, the superintendent of public instruction shall prepare, or contract to prepare, a guide of available programs and strategies pertaining to conflict resolution and other violence prevention topics. The guide shall include descriptions of curricular and training resources that are developmentally and culturally appropriate for the school populations being served, and shall include information regarding how to contact the organizations offering these resources.

(2) The superintendent of public instruction shall provide the curricular and training resources guide to those educational service districts, school districts, schools, teachers, classified staff, parents, and other interested parties who request it.

(3) In carrying out its responsibilities under this section, the superintendent of public instruction shall coordinate with other agencies engaged in related efforts, such as the department of community, trade, and economic development, and consult with educators, parents, community groups, and other interested parties.

**NEW SECTION. Sec. 602.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction shall, to the extent funding is available, contract with school districts, educational service districts, and approved in-service providers to conduct training sessions for school certificated and classified employees in conflict resolution and other violence prevention topics. The training shall be developmentally and culturally appropriate for the school populations being served and be research based. The training shall not be based solely on providing materials, but also shall include techniques on imparting these skills to students. The training sessions shall be developed in coordination with school districts, the superintendent of public instruction, parents, law enforcement agencies, human services providers, and other interested parties. The training shall be offered to school districts and school staff requesting the training, and shall be made available at locations throughout the state.

**Sec. 603.** RCW 28A.620.020 and 1985 c 344 s 2 are each amended to read as follows:

Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized and encouraged to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: **PROVIDED**, That school districts are encouraged to provide programs for prospective parents, prospective foster parents, and prospective adoptive parents



on parenting skills, violence prevention, and on the problems of child abuse and methods to avoid child abuse situations: PROVIDED FURTHER, That community education programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the state board for community and technical colleges (~~education~~) and shall be programs receiving the approval of said superintendent.

**NEW SECTION. Sec. 604.** A new section is added to chapter 70.190 RCW to read as follows:

A community public health and safety network, based on rules adopted by the department of health, may include in its comprehensive community plans procedures for providing matching grants to school districts to support expanded use of school facilities for after-hours recreational opportunities and day care as authorized under chapter 28A.215 RCW and RCW 28A.620.010.

**Sec. 605.** 1993 sp.s. c 24 s 501 (uncodified) is amended to read as follows:  
**FOR THE SUPERINTENDENT OF PUBLIC INSTRUCTION—FOR STATE ADMINISTRATION**

General Fund—State Appropriation . . . . .	\$	34,414,000
General Fund—Federal Appropriation . . . . .	\$	33,106,000
Public Safety and Education Account		
Appropriation . . . . .	\$	338,000
<u>Violence Reduction and Drug Enforcement</u>		
( <del>and Education</del> ) Account Appropriation . . .	\$	3,197,000
<b>TOTAL APPROPRIATION . . .</b>	<b>\$</b>	<b>71,055,000</b>

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

(1) AGENCY OPERATIONS

(a) \$304,000 of the general fund—state appropriation is provided solely to upgrade the student data collection capability of the superintendent of public instruction.

(b) \$423,000 of the general fund—state appropriation is provided solely for certification investigation activities of the office of professional practices.

(c) \$770,000 of the general fund—state appropriation is provided solely for the operation and expenses of the state board of education, including basic education assistance activities.

~~((e))~~ (d) The entire public safety and education account appropriation is provided solely for administration of the traffic safety education program, including in-service training related to instruction in the risks of driving while under the influence of alcohol and other drugs.

~~((f))~~ (e) \$10,000 of the general fund—state appropriation is provided solely for a contract through the Washington State Institute for Public Policy at The Evergreen State College for a bilingual education conference to disseminate

information on best practices in bilingual instruction, including model programs from other states, and to develop strategies for incorporating the most effective instructional methods into the state's bilingual curriculum.

(2) STATE-WIDE PROGRAMS

(a) \$100,000 of the general fund—state appropriation is provided for state-wide curriculum development.

(b) \$62,000 of the general fund—state appropriation is provided for operation of a K-2 education program at Pt. Roberts by the Blaine school district.

(c) \$2,415,000 of the general fund—state appropriation is provided for in-service training and educational programs conducted by the Pacific science center.

(d) \$70,000 of the general fund—state appropriation is provided for operation of the Cispus environmental learning center.

(e) \$2,949,000 of the general fund—state appropriation is provided for educational clinics, including state support activities.

(f) \$3,437,000 of the general fund—state appropriation is provided for grants for magnet schools to be distributed as recommended by the superintendent of public instruction pursuant to chapter 232, section 516(13), Laws of 1992.

(g) \$4,855,000 of the general fund—state appropriation is provided for complex need grants. Grants shall be provided according to funding ratios established in LEAP Document 30B as developed on May 4, 1993, at 11:00 a.m.

(h) \$3,050,000 of the violence reduction and drug enforcement (~~and education~~) account appropriation is provided solely for matching grants to enhance security in secondary schools. Not more than seventy-five percent of a district's total expenditures for school security in any school year may be paid from a grant under this subsection. The grants shall be expended solely for the costs of employing or contracting for building security monitors, metal detectors, or other security in secondary schools during school hours and school events. Of the amount provided in this subsection, at least \$2,850,000 shall be spent for grants to districts that, during the 1988-89 school year, employed or contracted for security monitors in schools during school hours. However, these grants may be used only for increases in school district expenditures for school security over expenditure levels for the 1988-89 school year.

(i) Districts receiving allocations from subsection (2) (f) and (g) of this section shall submit an annual report to the superintendent of public instruction on the use of all district resources to address the educational needs of at-risk students in each school building.

*\*Sec. 606. RCW 28A.600.475 and 1992 c 205 s 120 are each amended to read as follows:*

*(1) School districts may participate in the exchange of information with law enforcement and juvenile court officials to the extent permitted by the family educational and privacy rights act of 1974, 20 U.S.C. Sec. 1232g. When directed by court order or pursuant to (~~any~~) a lawfully issued subpoena, a school district shall make student records and information available to law*

enforcement officials, probation officers, court personnel, and others legally entitled to the information. Parents and students shall be notified by the school district of all ~~((such))~~ orders or subpoenas in advance of compliance with them.

(2) The social file, diversion record, police contact record, and arrest record of a student may be made available to a school district if the records are requested by the principal or school counselor. Use of the records is restricted to the principal, the school counselor, or a teacher or teachers identified by the principal as necessary for the provision of additional services to the student. The records may only be used to identify and facilitate those services offered through the school district that would be of benefit to the student. The student's records shall be made available only after providing seventy-two hours' written notice to the parent or guardian of the subject of the record and only to appropriate professional staff under the provisions of this section, section 609 of this act, and chapter 13.50 RCW unless a parent or guardian provides, prior to the release of the records, a statement indicating which records shall remain confidential until such further written release. School districts shall provide written notice of this section to parents or guardians at the time of enrollment of a student. Following the completed use of the records, the principal shall destroy the records and not permit them to be disclosed to any other person.

\*Sec. 606 was vetoed, see message at end of chapter.

\*Sec. 607. RCW 13.50.050 and 1992 c 188 s 7 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.

(4) Except as otherwise provided in this section and RCW 13.50.010, records retained or produced by any juvenile justice or care agency may be released to other participants in the juvenile justice or care system only when an investigation or case involving the juvenile in question is being pursued by the other participant or when that other participant is assigned the responsibility for supervising the juvenile.

(5) Except as provided in RCW 4.24.550 or 28A.600.475, information not in an official juvenile court file concerning a juvenile or a juvenile's family may be released to the public only when that information could not reasonably be expected to identify the juvenile or the juvenile's family.

(6) Notwithstanding any other provision of this chapter, the release, to the juvenile or his or her attorney, of law enforcement and prosecuting attorneys'

*records pertaining to investigation, diversion, and prosecution of juvenile offenses shall be governed by the rules of discovery and other rules of law applicable in adult criminal investigations and prosecutions.*

*(7) The juvenile court and the prosecutor may set up and maintain a central record-keeping system which may receive information on all alleged juvenile offenders against whom a complaint has been filed pursuant to RCW 13.40.070 whether or not their cases are currently pending before the court. The central record-keeping system may be computerized. If a complaint has been referred to a diversion unit, the diversion unit shall promptly report to the juvenile court or the prosecuting attorney when the juvenile has agreed to diversion. An offense shall not be reported as criminal history in any central record-keeping system without notification by the diversion unit of the date on which the offender agreed to diversion.*

*(8) Upon request of the victim of a crime or the victim's immediate family, the identity of an alleged or proven juvenile offender alleged or found to have committed a crime against the victim and the identity of the alleged or proven juvenile offender's parent, guardian, or custodian and the circumstance of the alleged or proven crime shall be released to the victim of the crime or the victim's immediate family.*

*(9) Subject to the rules of discovery applicable in adult criminal prosecutions, the juvenile offense records of an adult criminal defendant or witness in an adult criminal proceeding shall be released upon request to prosecution and defense counsel after a charge has actually been filed. The juvenile offense records of any adult convicted of a crime and placed under the supervision of the adult corrections system shall be released upon request to the adult corrections system.*

*(10) In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the sealing of the official juvenile court file, the social file, and records of the court and of any other agency in the case.*

*(11) The court shall grant the motion to seal records made pursuant to subsection (10) of this section if it finds that:*

*(a) Two years have elapsed from the later of: (i) Final discharge of the person from the supervision of any agency charged with supervising juvenile offenders; or (ii) from the entry of a court order relating to the commission of a juvenile offense or a criminal offense;*

*(b) No proceeding is pending against the moving party seeking the conviction of a juvenile offense or a criminal offense; and*

*(c) No proceeding is pending seeking the formation of a diversion agreement with that person.*

(12) *The person making a motion pursuant to subsection (10) of this section shall give reasonable notice of the motion to the prosecution and to any person or agency whose files are sought to be sealed.*

(13) *If the court grants the motion to seal made pursuant to subsection (10) of this section, it shall, subject to subsection (24) of this section, order sealed the official juvenile court file, the social file, and other records relating to the case as are named in the order. Thereafter, the proceedings in the case shall be treated as if they never occurred, and the subject of the records may reply accordingly to any inquiry about the events, records of which are sealed. Any agency shall reply to any inquiry concerning confidential or sealed records that records are confidential, and no information can be given about the existence or nonexistence of records concerning an individual.*

(14) *Inspection of the files and records included in the order to seal may thereafter be permitted only by order of the court upon motion made by the person who is the subject of the information or complaint, except as otherwise provided in RCW 13.50.010(8) and subsection (24) of this section.*

(15) *Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order. Any conviction for any adult felony subsequent to the sealing has the effect of nullifying the sealing order for the purposes of chapter 9.94A RCW for any juvenile adjudication of guilt for a class A offense or a sex offense as defined in RCW 9.94A.030.*

(16) *In any case in which an information has been filed pursuant to RCW 13.40.100 or a complaint has been filed with the prosecutor and referred for diversion pursuant to RCW 13.40.070, the person who is the subject of the information or complaint may file a motion with the court to have the court vacate its order and findings, if any, and, subject to subsection (24) of this section, order the destruction of the official juvenile court file, the social file, and records of the court and of any other agency in the case.*

(17) *The court may grant the motion to destroy records made pursuant to subsection (16) of this section if it finds:*

- (a) *The person making the motion is at least twenty-three years of age;*
- (b) *The person has not subsequently been convicted of a felony;*
- (c) *No proceeding is pending against that person seeking the conviction of a criminal offense; and*
- (d) *The person has never been found guilty of a serious offense.*

(18) *A person eighteen years of age or older whose criminal history consists of only one referral for diversion may request that the court order the records in that case destroyed. The request shall be granted, subject to subsection (24) of this section, if the court finds that two years have elapsed since completion of the diversion agreement.*

(19) *If the court grants the motion to destroy records made pursuant to subsection (16) or (18) of this section, it shall, subject to subsection (24) of this section, order the official juvenile court file, the social file, and any other records named in the order to be destroyed.*

*(20) The person making the motion pursuant to subsection (16) or (18) of this section shall give reasonable notice of the motion to the prosecuting attorney and to any agency whose records are sought to be destroyed.*

*(21) Any juvenile to whom the provisions of this section may apply shall be given written notice of his or her rights under this section at the time of his or her disposition hearing or during the diversion process.*

*(22) Nothing in this section may be construed to prevent a crime victim or a member of the victim's family from divulging the identity of the alleged or proven juvenile offender or his or her family when necessary in a civil proceeding.*

*(23) Any juvenile justice or care agency may, subject to the limitations in subsection (24) of this section and subparagraphs (a) and (b) of this subsection, develop procedures for the routine destruction of records relating to juvenile offenses and diversions.*

*(a) Records may be routinely destroyed only when the person the subject of the information or complaint has attained twenty-three years of age or older, or is eighteen years of age or older and his or her criminal history consists entirely of one diversion agreement and two years have passed since completion of the agreement.*

*(b) The court may not routinely destroy the official juvenile court file or recordings or transcripts of any proceedings.*

*(24) No identifying information held by the Washington state patrol in accordance with chapter 43.43 RCW is subject to destruction or sealing under this section. For the purposes of this subsection, identifying information includes photographs, fingerprints, palmprints, soleprints, toeprints and any other data that identifies a person by physical characteristics, name, birthdate or address, but does not include information regarding criminal activity, arrest, charging, diversion, conviction or other information about a person's treatment by the criminal justice system or about the person's behavior.*

*(25) Information identifying child victims under age eighteen who are victims of sexual assaults by juvenile offenders is confidential and not subject to release to the press or public without the permission of the child victim or the child's legal guardian. Identifying information includes the child victim's name, addresses, location, photographs, and in cases in which the child victim is a relative of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Information identifying a child victim of sexual assault may be released to law enforcement, prosecutors, judges, defense attorneys, or private or governmental agencies that provide services to the child victim of sexual assault.*

\*Sec. 607 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 608. The Washington state school directors' association shall conduct a study to identify possible incentives to encourage schools to increase the space that is available for after-hours community use. The association shall examine incentives for both existing school facilities and

for new construction. The association shall report its findings and recommendations to the legislature by November 15, 1994.

**NEW SECTION. Sec. 609.** (1) The department of social and health services and the superintendent of public instruction shall review all statutes and rules relative to the sharing or exchange of information about children who are the subject of reports of abuse and neglect or who are charged with criminal behavior. The department and the superintendent shall revise or adopt rules, consistent with federal guidelines, that allow educational professionals in elementary and secondary schools access to information contained in department records solely for purposes of improving the child's educational performance or attendance.

(2) The department and superintendent shall also revise or adopt rules, consistent with federal guidelines, that allows the department access to information contained in the records of a school or school district on a child who is the subject of a report of abuse or neglect solely for the purpose of improving the department's ability to respond to the report of abuse or neglect.

The department and superintendent shall report their findings and actions, including the need for statutory changes, to the legislature by December 31, 1994.

This section shall expire January 1, 1995.

**NEW SECTION. Sec. 610.** (1) A task force on student conduct is created. The purpose of the task force is to identify laws, rules, and practices that make it difficult for educators to manage their classrooms and schools effectively. Based on these findings, the task force shall make recommendations to the legislature, the state board of education, the superintendent of public instruction, school districts, institutions of higher education, and others regarding actions that could be taken to reduce the problems generated by disruptive students and thereby make schools more conducive to learning.

(2) Members of the task force and the chair shall be appointed by the superintendent of public instruction, and shall include, but not be limited to, representatives of parents, elementary teachers, secondary teachers, middle/junior high school vice-principals, senior high school vice-principals, classified employees, and special education educators.

(3) Staffing for the task force shall be the responsibility of the superintendent of public instruction. Personnel from the office of the superintendent may staff the task force, or the superintendent may enter into a contract with a public or private entity.

(4) The findings and recommendations of the task force shall be submitted to the entities identified in subsection (1) of this section by November 1, 1994.

(5) This section shall expire December 31, 1994.

**NEW SECTION. Sec. 611.** A new section is added to chapter 28A.300 RCW to read as follows:

The superintendent of public instruction and the office of the attorney general, in cooperation with the Washington state bar association, shall develop a volunteer-based conflict resolution and mediation program for use in community groups such as neighborhood organizations and the public schools. The program shall use lawyers to train students who in turn become trainers and mediators for their peers in conflict resolution.

**NEW SECTION. Sec. 612.** A new section is added to chapter 28A.320 RCW to read as follows:

(1) School district boards of directors may establish schools or programs which parents may choose for their children to attend in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are required to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district.

(2) School district boards of directors may establish schools or programs in which: (a) Students are required to conform to dress and grooming codes, including requiring that students wear uniforms; (b) parents are regularly counseled and encouraged to participate in the student's education; or (c) discipline requirements are more stringent than in other schools in the district. School boards may require that students who are subject to suspension or expulsion attend these schools or programs as a condition of continued enrollment in the school district.

(3) If students are required to wear uniforms in these programs or schools, school districts shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

(4) Nothing in this section impairs or reduces in any manner whatsoever the authority of a board under other law to impose a dress and appearance code. However, if a board requires uniforms under such other authority, it shall accommodate students so that the uniform requirement is not an unfair barrier to school attendance and participation.

## PART VII. EMPLOYMENT

**NEW SECTION. Sec. 701.** The legislature recognizes the importance of education and employment experiences for youth and the critical role of school-to-work transition options to achieving job readiness. Therefore, in light of these priorities, the department of labor and industries is directed to accelerate its evaluation of the minor work rules adopted under chapter 49.12 RCW. The department shall report to the governor and the appropriate committees of the legislature on its evaluation of the minor work rules prior to the start of the 1995 regular legislative session.

**Sec. 702.** RCW 43.63A.700 and 1993 sp.s. c 25 s 401 are each amended to read as follows:

(1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, shall



approve applications submitted by local governments for designation as a ~~((neighborhood-reinvestment-area))~~ community empowerment zone under this section. The application shall be in the form and manner and contain such information as the department may prescribe, provided that the application for designation shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.63A.710 have been met.

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government.

(c) Contain a five-year ~~((neighborhood-reinvestment))~~ community empowerment plan that describes the proposed designated ~~((neighborhood-reinvestment area's))~~ community empowerment zone's community development needs and present a strategy for meeting those needs. The plan shall address the following categories: Housing needs; public infrastructure needs, such as transportation, water, sanitation, energy, and drainage/flood control; other public facilities needs, such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services; community economic development needs, such as commercial/industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, or other related components of community economic development; and social service needs.

The local government is required to provide a description of its strategy for meeting the needs identified in this subsection (1)(c). As part of the strategy, the local government is required to identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(d) Certify that neighborhood residents were given the opportunity to participate in the development of the five-year ~~((neighborhood-reinvestment))~~ community empowerment strategy required under (c) of this subsection.

(2) No local government shall submit more than two neighborhoods to the department for possible designation as a designated ~~((neighborhood-reinvestment area))~~ community empowerment zone under this section.

(3)(a) Within ninety days after January 1, 1994, the director may designate up to six designated ~~((neighborhood-reinvestment-areas))~~ community empowerment zones from among the applications eligible for designation as a designated ~~((neighborhood-reinvestment-area under this section))~~ community empowerment zone.

(b) The director shall make determinations of designated ~~((neighborhood-reinvestment-areas))~~ community empowerment zones on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year (~~(neighborhood reinvestment)~~) community empowerment plan required under this section.

(ii) The level of private commitments by private entities of additional resources and contribution to the designated (~~(neighborhood reinvestment area)~~) community empowerment zone.

(iii) The potential for (~~(reinvestment in)~~) revitalization of the area as a result of designation as a designated (~~(neighborhood reinvestment area)~~) community empowerment zone.

(iv) Other factors the director (~~(of the department of community development)~~) deems necessary.

~~((b))~~ (c) The determination of the director as to the areas designated as (~~(neighborhood reinvestment areas)~~) community empowerment zones shall be final.

**Sec. 703.** RCW 43.63A.710 and 1993 sp.s. c 25 s 402 are each amended to read as follows:

(1) The director may not designate an area as a designated (~~(neighborhood reinvestment area)~~) community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year (~~(neighborhood reinvestment)~~) community empowerment plan for the area that meets the requirements of RCW 43.63A.700(1)(c) and as further defined by the director must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this section are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used.

**Sec. 704.** RCW 82.60.020 and 1993 sp.s. c 25 s 403 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax deferral under this chapter.

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

(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; or (c) a designated (~~neighborhood-reinvestment-area~~) community empowerment zone approved under RCW 43.63A.700 .

(4)(a) "Eligible investment project" means that portion of an investment project which:

(i) Is directly utilized to create at least one new full-time qualified employment position for each three hundred thousand dollars of investment on which a deferral is requested; and

(ii) Either initiates a new operation, or expands or diversifies a current operation by expanding or renovating an existing building with costs in excess of twenty-five percent of the true and fair value of the plant complex prior to improvement; or

(iii) Acquires machinery and equipment to be used for either manufacturing or research and development if the machinery and equipment is housed in a new leased structure. The lessor/owner of the structure is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person.

(b) "Eligible investment project" does not include any portion of an investment project undertaken by a light and power business as defined in RCW 82.16.010(5) or investment projects which have already received deferrals under this chapter.

(5) "Investment project" means an investment in qualified buildings and qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

(6) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(7) "Person" has the meaning given in RCW 82.04.030.

(8) "Qualified buildings" means new structures used for manufacturing and research and development activities, including plant offices and warehouses or other facilities for the storage of raw material or finished goods if such facilities are an essential or an integral part of a factory, mill, plant, or laboratory used for manufacturing or research and development. If a building is used partly for manufacturing or research and development and partly for other purposes, the applicable tax deferral shall be determined by apportionment of the costs of construction under rules adopted by the department.

(9) "Qualified employment position" means a permanent full-time employee employed in the eligible investment project during the entire tax year.

(10) "Qualified machinery and equipment" means all new industrial and research fixtures, equipment, and support facilities that are an integral and necessary part of a manufacturing or research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; operating structures; and all equipment used to control or operate the machinery.

(11) "Recipient" means a person receiving a tax deferral under this chapter.

(12) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

**Sec. 705.** RCW 82.62.010 and 1993 sp.s. c 25 s 410 are each amended to read as follows:

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

(1) "Applicant" means a person applying for a tax credit under this chapter.

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

(3) "Eligible area" means: (a) A county in which the average level of unemployment for the three years before the year in which an application is filed under this chapter exceeds the average state unemployment for those years by twenty percent; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent; (c) a designated (~~neighborhood-reinvestment-area~~) community empowerment zone approved under RCW 43.63A.700; or (d) subcounty areas in those counties that are not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601.

(4)(a) "Eligible business project" means manufacturing or research and development activities which are conducted by an applicant in an eligible area

at a specific facility, provided the applicant's average full-time qualified employment positions at the specific facility will be at least fifteen percent greater in the year for which the credit is being sought than the applicant's average full-time qualified employment positions at the same facility in the immediately preceding year.

(b) "Eligible business project" does not include any portion of a business project undertaken by a light and power business as defined in RCW 82.16.010(5) or that portion of a business project creating qualified full-time employment positions outside an eligible area or those recipients of a sales tax deferral under chapter 82.61 RCW.

(5) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(6) "Person" has the meaning given in RCW 82.04.030.

(7) "Qualified employment position" means a permanent full-time employee employed in the eligible business project during the entire tax year.

(8) "Tax year" means the calendar year in which taxes are due.

(9) "Recipient" means a person receiving tax credits under this chapter.

(10) "Research and development" means the development, refinement, testing, marketing, and commercialization of a product, service, or process before commercial sales have begun. As used in this subsection, "commercial sales" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

## PART VIII. MEDIA

**NEW SECTION. Sec. 801.** The legislature finds that, to the extent that electronic media, including television, motion pictures, video games, and entertainment uses of virtual reality are conducive to increased violent behaviors, especially in children, the state has a duty to protect the public health and safety.

Many parents, educators, and others are concerned about protecting children and youth from the negative influences of the media, and want more information about media content and more control over media contact with their children.

**\*NEW SECTION. Sec. 802.** *Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.*

(1) *"Time/channel lock" is electronic circuitry designed to enable television owners to block display of selected times and channels from viewing.*

(2) *"Video" means any motion picture, television or other electronically delivered programming, or other presentation on film, video tape, or other medium designed to produce, reproduce, or project images on a screen.*

(3) *"Violence" means any deliberate and hostile use of overt force, or the immediate threat thereof, by an individual against another individual.*

(4) *"Virtual reality" means any computer or other electronic artificial-intelligence-based technology that creates an enhanced simulation or illusion of three-dimensional, real-time or near-real-time interactive reality through the use of software, specialized hardware, holograms, gloves, masks, glasses, pods, goggles, helmets, computer guns, or other items capable of producing visual, audio, tactile, or sensory effects of verisimilitude beyond those available with a personal computer.*

*\*Sec. 802 was vetoed, see message at end of chapter.*

**NEW SECTION. Sec. 803.** All new televisions sold in this state after January 1, 1995, shall be equipped with a time/channel lock or shall be sold with an offer to the customer to purchase a channel blocking device, or other device that enables a person to regulate a child's access to unwanted television programming. All cable television companies shall make available to all customers at the company's cost the opportunity to purchase a channel blocking device, or other device that enables a person to regulate a child's access to unwanted television programming. The commercial television sellers and cable television companies shall offer time/channel locks to their customers, when these devices are available. Notice of this availability shall be clearly made to all existing customers and to all new customers at the time of their signing up for service.

**\*NEW SECTION. Sec. 804.** All videos, video games, and virtual reality games sold or rented in this state shall clearly and prominently display a realistic age rating for appropriateness of use by end-users of the video or game. The age rating shall be researched, developed, and provided to the purchaser or renter of the video, video game, or virtual reality game, by the originator of the video or game. The originator, as used in this section, includes the manufacturer or software developer or copyright holder of the video or game.

*The originator may develop the age rating in any reasonable manner, as determined by the originator, who may consult child psychologists, educators, child development specialists, pediatricians, or others as appropriate in the determination of realistic age rating. The age-rating determination shall include an objective evaluation and estimate of the number of violent incidents represented in the media material being rated.*

*If the originator is a member of an industry or trade association and the association develops age-rating standards that meet the provisions of this section, the originator may adopt such standards.*

*The age-rating information may be presented to the consumer in any readily understandable format, whether by label, code, or information sheet.*

\*Sec. 804 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 805. Television and radio broadcast stations including cable stations, video rental companies, and print media are encouraged, as a matter of public health and safety, to broadcast public health-based, generic antiviolence public service messages. The content, style, and format of the messages shall be developed by the family policy council created under RCW 70.190.010, in coordination with its violence-reduction efforts. The messages may be produced with grant funds from the council or may be produced voluntarily by the media working with the council.*

\*Sec. 805 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 806. The legislature finds that, as a matter of public health and safety, access by minors to violent videos and violent video games is the responsibility of parents and guardians.*

Public libraries, with the exception of university, college, and community college libraries, shall establish policies on minors' access to violent videos and violent video games. Libraries shall make their policies known to the public in their communities.

Each library system shall formulate its own policies, and may, in its discretion, include public hearings, consultation with community networks as defined under chapter 70.190 RCW, or consultation with the Washington library association in the development of its policies.

**NEW SECTION.** *Sec. 807. A new section is added to chapter 13.16 RCW to read as follows:*

Motion pictures unrated after November 1968 or rated R, X, or NC-17 by the motion picture association of America shall not be shown in juvenile detention facilities or facilities operated by the division of juvenile rehabilitation in the department of social and health services.

**NEW SECTION.** *Sec. 808. A new section is added to chapter 72.02 RCW to read as follows:*

Motion pictures unrated after November 1968 or rated X or NC-17 by the motion picture association of America shall not be shown in adult correctional facilities.

**\*NEW SECTION.** *Sec. 809. A new section is added to chapter 43.19 RCW to read as follows:*

*Notwithstanding any other provision of law, the department of general administration shall adopt a policy of refusing to purchase goods and services for the state from businesses or corporations, including parent corporations, profiting from violence-related products or services. Nothing in this section requires the department to adopt a policy that results in a refusal to purchase goods and services from a corporation that is primarily engaged in the business of producing materials intended to be used in formal educational*

*settings. A business or corporation whose violence-related products or services are for the main purpose of national defense is exempt from this policy. Definitions and guidelines shall be developed by the department of general administration in consultation with the department of health.*

\*Sec. 809 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 810. A new section is added to chapter 43.33A RCW to read as follows:*

*The state investment board shall study and examine the extent to which it maintains investments in businesses or corporations, including parent corporations, profiting from violence-related products or services.*

*The study shall be directed at the equities or bonds of individual companies registered with the securities and exchange commission under the investment company act of 1940 and the securities act of 1933, and shall not include stock and bond index and open or closed-end mutual funds, or forms of securitized investment other than individual corporations.*

*As used in this section, businesses or corporations profiting from violence-related products or services include, without limitation, companies that produce or sell weapons, ammunition, or violent toys, and corporations engaged in electronic media violence, including network and cable television, motion pictures, videos and video games, entertainment virtual reality, and the recorded music industry. Criteria for determining whether a toy or electronic media is violent or not shall be established by the board in consultation with the department of health.*

*The study shall not include investments in a corporation that is primarily engaged in the business of producing materials intended to be used in formal educational settings. A business or corporation whose violence-related products or services are primarily for the purpose of national defense are also exempt from this study.*

*The board shall report to the legislature regarding the results of its violence investment study by December 1, 1995.*

\*Sec. 810 was vetoed, see message at end of chapter.

**NEW SECTION.** *Sec. 811. Sections 801 through 806 of this act shall constitute a new chapter in Title 19 RCW.*

**NEW SECTION.** *Sec. 812. Section 804 of this act shall take effect July 1, 1995.*

## PART IX. MISCELLANEOUS

**Sec. 901.** RCW 66.24.210 and 1993 c 160 s 2 are each amended to read as follows:

(1) There is hereby imposed upon all wines sold to wine wholesalers and the Washington state liquor control board, within the state a tax at the rate of twenty and one-fourth cents per liter: PROVIDED, HOWEVER, That wine sold or shipped in bulk from one winery to another winery shall not be subject to such tax. The tax provided for in this section may, if so prescribed by the board, be



collected by means of stamps to be furnished by the board, or by direct payments based on wine purchased by wine wholesalers. Every person purchasing wine under the provisions of this section shall on or before the twentieth day of each month report to the board all purchases during the preceding calendar month in such manner and upon such forms as may be prescribed by the board, and with such report shall pay the tax due from the purchases covered by such report unless the same has previously been paid. Any such purchaser of wine whose applicable tax payment is not postmarked by the twentieth day following the month of purchase will be assessed a penalty at the rate of two percent a month or fraction thereof. If this tax be collected by means of stamps, every such person shall procure from the board revenue stamps representing the tax in such form as the board shall prescribe and shall affix the same to the package or container in such manner and in such denomination as required by the board and shall cancel the same prior to the delivery of the package or container containing the wine to the purchaser. If the tax is not collected by means of stamps, the board may require that every such person shall execute to and file with the board a bond to be approved by the board, in such amount as the board may fix, securing the payment of the tax. If any such person fails to pay the tax when due, the board may forthwith suspend or cancel the license until all taxes are paid.

(2) An additional tax is imposed equal to the rate specified in RCW 82.02.030 multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) An additional tax is imposed on wines subject to tax under subsection (1) of this section, at the rate of one-fourth of one cent per liter for wine sold after June 30, 1987. Such additional tax shall cease to be imposed on July 1, 2001. All revenues collected under this subsection (3) shall be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(4) ~~((Until July 1, 1995,))~~ An additional tax is imposed on all wine subject to tax under subsection (1) of this section. The additional tax is equal to twenty-three and forty-four one-hundredths cents per liter on fortified wine as defined in RCW 66.04.010(34) when bottled or packaged by the manufacturer and one cent per liter on all other wine. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement ~~((and education))~~ account under RCW 69.50.520 by the twenty-fifth day of the following month.

**Sec. 902.** RCW 66.24.290 and 1993 c 492 s 311 are each amended to read as follows:

(1) Any brewer or beer wholesaler licensed under this title may sell and deliver beer to holders of authorized licenses direct, but to no other person, other than the board; and every such brewer or beer wholesaler shall report all sales to the board monthly, pursuant to the regulations, and shall pay to the board as

an added tax for the privilege of manufacturing and selling the beer within the state a tax of two dollars and sixty cents per barrel of thirty-one gallons on sales to licensees within the state and on sales to licensees within the state of bottled and canned beer shall pay a tax computed in gallons at the rate of two dollars and sixty cents per barrel of thirty-one gallons. Any brewer or beer wholesaler whose applicable tax payment is not postmarked by the twentieth day following the month of sale will be assessed a penalty at the rate of two percent per month or fraction thereof. Each such brewer or wholesaler shall procure from the board revenue stamps representing such tax in form prescribed by the board and shall affix the same to the barrel or package in such manner and in such denominations as required by the board, and shall cancel the same prior to commencing delivery from his or her place of business or warehouse of such barrels or packages. Beer shall be sold by brewers and wholesalers in sealed barrels or packages. The revenue stamps provided under this section need not be affixed and canceled in the making of resales of barrels or packages already taxed by the affixation and cancellation of stamps as provided in this section.

(2) An additional tax is imposed equal to seven percent multiplied by the tax payable under subsection (1) of this section. All revenues collected during any month from this additional tax shall be transferred to the state general fund by the twenty-fifth day of the following month.

(3) (~~Until July 1, 1995,~~) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to two dollars per barrel of thirty-one gallons. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement (~~(and education)~~) account under RCW 69.50.520 by the twenty-fifth day of the following month.

(4)(a) An additional tax is imposed on all beer subject to tax under subsection (1) of this section. The additional tax is equal to ninety-six cents per barrel of thirty-one gallons through June 30, 1995, two dollars and thirty-nine cents per barrel of thirty-one gallons for the period July 1, 1995, through June 30, 1997, and four dollars and seventy-eight cents per barrel of thirty-one gallons thereafter.

(b) The additional tax imposed under this subsection does not apply to the sale of the first sixty thousand barrels of beer each year by breweries that are entitled to a reduced rate of tax under 26 U.S.C. Sec. 5051, as existing on July 1, 1993, or such subsequent date as may be provided by the board by rule consistent with the purposes of this exemption.

(c) All revenues collected from the additional tax imposed under this subsection (4) shall be deposited in the health services account under RCW 43.72.900.

(5) The tax imposed under this section shall not apply to "strong beer" as defined in this title.

**Sec. 903.** RCW 82.08.150 and 1993 c 492 s 310 are each amended to read as follows:

(1) There is levied and shall be collected a tax upon each retail sale of spirits, or strong beer in the original package at the rate of fifteen percent of the selling price. The tax imposed in this subsection shall apply to all such sales including sales by the Washington state liquor stores and agencies, but excluding sales to class H licensees.

(2) There is levied and shall be collected a tax upon each sale of spirits, or strong beer in the original package at the rate of ten percent of the selling price on sales by Washington state liquor stores and agencies to class H licensees.

(3) There is levied and shall be collected an additional tax upon each retail sale of spirits in the original package at the rate of one dollar and seventy-two cents per liter. The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to class H licensees.

(4) An additional tax is imposed equal to fourteen percent multiplied by the taxes payable under subsections (1), (2), and (3) of this section.

(5) (~~Until July 1, 1995,~~) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of seven cents per liter. The additional tax imposed in this subsection shall apply to all such sales including sales by Washington state liquor stores and agencies, and including sales to class H licensees. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement (~~and education~~) account under RCW 69.50.520 by the twenty-fifth day of the following month.

(6)(a) An additional tax is imposed upon retail sale of spirits in the original package at the rate of one and seven-tenths percent of the selling price through June 30, 1995, two and six-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and three and four-tenths of the selling price thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, but excluding sales to class H licensees.

(b) An additional tax is imposed upon retail sale of spirits in the original package at the rate of one and one-tenth percent of the selling price through June 30, 1995, one and seven-tenths percent of the selling price for the period July 1, 1995, through June 30, 1997, and two and three-tenths of the selling price thereafter. This additional tax applies to all such sales to class H licensees.

(c) An additional tax is imposed upon each retail sale of spirits in the original package at the rate of twenty cents per liter through June 30, 1995, thirty cents per liter for the period July 1, 1995, through June 30, 1997, and forty-one cents per liter thereafter. This additional tax applies to all such sales including sales by Washington state liquor stores and agencies, and including sales to class H licensees.

(d) All revenues collected during any month from additional taxes under this subsection shall be deposited in the health services account created under RCW 43.72.900 by the twenty-fifth day of the following month.

(7) The tax imposed in RCW 82.08.020 shall not apply to sales of spirits or strong beer in the original package.

(8) The taxes imposed in this section shall be paid by the buyer to the seller, and each seller shall collect from the buyer the full amount of the tax payable in respect to each taxable sale under this section. The taxes required by this section to be collected by the seller shall be stated separately from the selling price and for purposes of determining the tax due from the buyer to the seller, it shall be conclusively presumed that the selling price quoted in any price list does not include the taxes imposed by this section.

(9) As used in this section, the terms, "spirits," "strong beer," and "package" shall have the meaning ascribed to them in chapter 66.04 RCW.

**Sec. 904.** RCW 82.24.020 and 1993 c 492 s 307 are each amended to read as follows:

(1) There is levied and there shall be collected as provided in this chapter, a tax upon the sale, use, consumption, handling, possession or distribution of all cigarettes, in an amount equal to the rate of eleven and one-half mills per cigarette.

(2) (~~Until July 1, 1995,~~) An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to the rate of ~~((one and one-half))~~ five and one-fourth mills per cigarette. All revenues collected during any month from this additional tax shall be deposited in the violence reduction and drug enforcement (~~(and education)~~) account under RCW 69.50.520 by the twenty-fifth day of the following month.

(3) An additional tax is imposed upon the sale, use, consumption, handling, possession, or distribution of all cigarettes, in an amount equal to the rate of ten mills per cigarette through June 30, 1994, eleven and one-fourth mills per cigarette for the period July 1, 1994, through June 30, 1995, twenty mills per cigarette for the period July 1, 1995, through June 30, 1996, and twenty and one-half mills per cigarette thereafter. All revenues collected during any month from this additional tax shall be deposited in the health services account created under RCW 43.72.900 by the twenty-fifth day of the following month.

(4) Wholesalers and retailers subject to the payment of this tax may, if they wish, absorb one-half mill per cigarette of the tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

(5) For purposes of this chapter, "possession" shall mean both (a) physical possession by the purchaser and, (b) when cigarettes are being transported to or held for the purchaser or his or her designee by a person other than the purchaser, constructive possession by the purchaser or his or her designee, which constructive possession shall be deemed to occur at the location of the cigarettes being so transported or held.

**Sec. 905.** RCW 82.64.010 and 1991 c 80 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) "Carbonated beverage" has its ordinary meaning and includes any nonalcoholic liquid intended for human consumption which contains carbon dioxide, whether carbonation is obtained by natural or artificial means.

(2) "Previously taxed (~~carbonated beverage or~~) syrup" means (~~a carbonated beverage or~~) syrup in respect to which a tax has been paid under this chapter. (~~A "previously taxed carbonated beverage" includes carbonated beverages in respect to which a tax has been paid under this chapter on the carbonated beverage or on the syrup in the carbonated beverage.~~)

(3) "Syrup" means a concentrated liquid which is added to carbonated water to produce a carbonated beverage.

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

**Sec. 906.** RCW 82.64.020 and 1991 c 80 s 2 are each amended to read as follows:

(1) A tax is imposed on each sale at wholesale of (~~a carbonated beverage or~~) syrup in this state. The rate of the tax shall be equal to (~~eighty four one-thousandths of a cent per ounce for carbonated beverages and seventy five cents~~) one dollar per gallon (~~for syrups~~). Fractional amounts shall be taxed proportionally.

(2) A tax is imposed on each sale at retail of (~~a carbonated beverage or~~) syrup in this state. The rate of the tax shall be equal to the rate imposed under subsection (1) of this section.

(3) Moneys collected under this chapter shall be deposited in the violence reduction and drug enforcement (~~and education~~) account under RCW 69.50.520.

(4) Chapter 82.32 RCW applies to the taxes imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the taxes imposed in this chapter.

**Sec. 907.** RCW 82.64.030 and 1991 c 80 s 3 are each amended to read as follows:

The following are exempt from the taxes imposed in this chapter:

(1) Any successive sale of a previously taxed (~~carbonated beverage or~~) syrup.

(2) Any (~~carbonated beverage or~~) syrup that is transferred to a point outside the state for use outside the state. The department shall provide by rule appropriate procedures and exemption certificates for the administration of this exemption.

(3) Any sale at wholesale of a trademarked (~~carbonated beverage or~~) syrup by any person to a person commonly known as a bottler who is appointed by the owner of the trademark to manufacture, distribute, and sell such trademarked (~~carbonated beverage or~~) syrup within a specified geographic territory.

(4) Any sale of ~~((carbonated beverage or))~~ syrup in respect to which a tax on the privilege of possession was paid under this chapter before June 1, 1991.

**Sec. 908.** RCW 82.64.040 and 1991 c 80 s 7 are each amended to read as follows:

(1) Credit shall be allowed, in accordance with rules of the department, against the taxes imposed in this chapter for any ~~((carbonated beverage or))~~ syrup tax paid to another state with respect to the same ~~((carbonated beverage or))~~ syrup. The amount of the credit shall not exceed the tax liability arising under this chapter with respect to that ~~((carbonated beverage or))~~ syrup.

(2) For the purpose of this section:

(a) "~~((Carbonated beverage or))~~ Syrup tax" means a tax:

(i) That is imposed on the sale at wholesale of ~~((carbonated beverages or))~~ syrup and that is not generally imposed on other activities or privileges; and

(ii) That is measured by the volume of the ~~((carbonated beverage or))~~ syrup.

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

**NEW SECTION. Sec. 909.** The following acts or parts of acts are each repealed:

(1) RCW 82.64.060 and 1991 c 80 s 5; and

(2) RCW 82.64.900 and 1989 c 271 s 509.

**Sec. 910.** RCW 69.50.520 and 1989 c 271 s 401 are each amended to read as follows:

The violence reduction and drug enforcement ~~((and education))~~ account is created in the state treasury. All designated receipts from RCW 9.41.110(5), 66.24.210(4), 66.24.290(3), 69.50.505(((1)(2)(i)(C))) (h)(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 ~~((this act))~~ chapter 271, Laws of 1989 and chapter . . ., Laws of 1994 (this act), including state incarceration costs. 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.

**NEW SECTION. Sec. 911.** Sections 901 through 909 of this act shall be submitted as a single ballot measure to the people for their adoption and ratification, or rejection, at the next succeeding general election to be held in this state, in accordance with Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof unless section 13, chapter 2, Laws of 1994, has been declared invalid or otherwise enjoined or stayed by a court of competent jurisdiction.

**NEW SECTION. Sec. 912.** Sections 905 through 908 of this act shall not be construed as affecting any existing right acquired or liability or obligation

incurred, nor as affecting any proceeding instituted under those sections, before the effective date of sections 905 through 908 of this act.

**NEW SECTION. Sec. 913.** 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. 914.** Part headings and the table of contents as used in this act do not constitute any part of the law.

**NEW SECTION. Sec. 915.** (1) Sections 201 through 204, 302, 323, 411, 412, 417, and 418 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

(2) Sections 904 through 908 of this act shall take effect July 1, 1995.

(3) Notwithstanding other provisions of this section, if sections 901 through 909 of this act are referred to the voters at the next succeeding general election and sections 901 through 909 of this act are rejected by the voters, then the amendments by sections 510 through 512, 519, 521, 525, and 527 of this act shall expire on July 1, 1995.

**NEW SECTION. Sec. 916.** Sections 401 through 410, 413 through 416, 418 through 437, and 439 through 460 of this act shall take effect July 1, 1994.

**NEW SECTION. Sec. 917.** Sections 540 through 545 of this act shall apply to offenses committed on or after July 1, 1994.

**NEW SECTION. Sec. 918.** (1) The legislature finds that the juvenile justice act of 1977, chapter 13.40 RCW, requires substantial revision. The legislature reaffirms the goals of the act, including the dual goals of punishment and rehabilitation of juvenile offenders. The legislature finds, however, that the substantive provisions of the act are too structured to achieve fully the act's goals.

The framework created by the act has diminishing relevance to today's violent and chronic offenders. Juveniles are committing increasingly violent crimes, and they are committing these violent crimes at an increasingly younger age. Simultaneously, juveniles repeatedly commit minor offenses. Dispositions prescribed by the act are not long enough to permit substantial rehabilitation of violent offenders, and minor offenders receive no meaningful intervention. The fixed system established by the act restricts the judiciary's efforts to tailor punishment and rehabilitation to the juvenile's individual needs. Additionally, substantial delays occur before the juvenile offender is held accountable for criminal acts.

(2) These problems with the juvenile justice system require substantial review. To this end, the legislature affirmatively declares its intent to undertake significant revisions to the juvenile justice act during the 1995 regular legislative session.

(3) Therefore, effective July 1, 1994, a special legislative task force is created to examine the effectiveness of the juvenile justice act of 1977, to survey alternatives to the act, and to recommend to the legislature by December 15, 1994, appropriate revisions to the juvenile justice laws.

(4) This task force shall recommend changes to the juvenile justice laws based upon and embodying the following principles:

(a) Juvenile dispositions should be based primarily on the juvenile's current offense, and the length and intensity of the disposition should increase with the severity of the offense;

(b) The juvenile justice system should hold juveniles accountable for their actions and should employ early intervention methods to prevent minor offenders from continuing their criminal conduct. Families should become more involved in the juvenile justice system;

(c) A juvenile justice system should promote positive behavioral change, and dispositions should emphasize effective, practical rehabilitation, because meaningful change is essential to preventing recidivism and consequent public harm; and

(d) Judges should have broadened discretion to tailor punishment and rehabilitation to the juvenile offender's needs. The statutes should permit use of alternative disposition options not included in current law.

(5) In formulating its recommendations, the task force shall:

(a) Evaluate the fiscal and capital planning impact of the recommended revisions to juvenile justice laws;

(b) Consult with the department of social and health services, the capital budget committee of the house of representatives, and the ways and means committee of the senate regarding the development of a master capital plan for juvenile offender confinement facilities; and

(c) Examine local resources and the implications of the recommendations on juvenile dispositions and rehabilitation at the local level.

(6) The task force established under this section shall consist of two members, who shall not be members of the same caucus, from each of the following: The house of representatives committees on corrections, judiciary, appropriations, human services, and capital budget; and the senate committees on education, law and justice, and health and human services; and four members, no more than two of whom shall be members of the same caucus, from the senate ways and means committee. The speaker of the house of representatives shall appoint the members from the house of representatives, and the president of the senate shall appoint the members from the senate. This task force shall meet and conduct hearings as often as is necessary to carry out its responsibilities under this section. The office of program research and senate committee services shall provide support staff to the task force.

(7) The task force shall receive access to all relevant information necessary to carry out its responsibilities under this section. All confidential information received by the task force under this section shall be kept confidential by



members of the task force and shall not be further disseminated unless specifically authorized by state or federal law.

(8) The special task force, unless recreated by the legislature, shall cease to exist after submitting the report required under this section.

\*Sec. 919. 1993 sp.s. c 24 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 . . . . .	\$	<del>((292,004,000))</del>
		<u>283,352,000</u>
General Fund—Federal Appropriation . . . . .	\$	<del>((193,407,000))</del>
		<u>216,172,000</u>
Drug Enforcement and Education Account		
Appropriation . . . . .	\$	3,722,000
TOTAL APPROPRIATION . . . . .	\$	<del>((489,133,000))</del>
		<u>503,246,000</u>

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

(1) \$854,000 of the drug enforcement and education account appropriation and \$300,000 of the general fund—state appropriation are provided solely to contract for the operation of one pediatric interim care facility. The facility shall provide residential care for up to twelve 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 also shall 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.

(2) \$700,000 of the general fund—state appropriation and \$262,000 of the drug enforcement and education account appropriation are provided solely 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 have successfully performed under the existing pediatric interim care program.

(3) In the event that the department consolidates children’s services offices, the department shall ensure that services continue to be accessible to isolated communities.

(4) ~~(((\$14,984,000 of the general fund—state appropriation and \$14,632,000 of the general fund—federal appropriation are provided to establish a state child~~

~~care block grant by July 1, 1994. The department shall develop a plan for administering the block grant which shall include: (a) A state wide distribution formula; (b) a block grant application process that encourages the cooperative efforts of local governments, resource and referral agencies, and other not for-profit organizations involved with child care; (c) recommendations about cost-effective ways to administer child care subsidies in rural areas of the state; and (d) recommendations for the percentage of the grant to be used for local administration. The plan shall be presented to the appropriate legislative committees by January 1, 1994.)~~ The department shall develop and implement a plan for removing categorical barriers to access for families needing departmental child care services. The plan shall be developed in consultation with the child care coordinating committee, and shall include strategies such as: (a) Collocation of child care eligibility workers with other relevant service providers such as resource and referral agencies; (b) development of a uniform application form and process across programs; (c) cross-training of departmental and resource and referral agency child care staff; (d) development of parent brochures; and (e) increased coordination at the local level with child care and early childhood programs operated by other agencies and governmental jurisdictions. The department shall report to appropriate committees of the legislature on the plan and its implementation status by December 1, 1994.

(5) The department shall coordinate funding totaling \$400,000 from all available sources to initiate a residential teen welfare protection program in an urban county with a population over 550,000. The program shall be designed to improve employment and parenting skills of teenage mothers to reduce long-term welfare dependence. The department shall select a provider with experience in providing residential services to adolescent mothers and their infants.

(6) The family policy council under chapter 70.190 RCW shall establish procedures for locating appropriate counseling staff of participating agencies in public schools.

~~((8) \$8,792,000 of the general fund—state appropriation is provided solely to implement the following programs: \$385,000 of this amount is provided for the medical training project on the evaluation and care of child sexual abuse; \$4,784,000 of this amount is provided for contracts for domestic violence shelters and comprehensive domestic violence service planning; \$2,841,000 of this amount is provided for early identification and treatment of child sexual abuse; and \$782,000 of this amount is provided for sexual assault centers.))~~

(7) \$900,000 of the general fund—state appropriation, and \$225,000 of the general fund—federal appropriation, are provided solely to implement Engrossed Second Substitute Senate Bill No. 6255 (permanency planning for children). The department may transfer a portion of this amount to the legal services revolving fund for costs associated with implementation of this bill.

(8) \$4,142,000 of the general fund—state appropriation and \$1,858,000 of the general fund—federal appropriation are provided solely to fund prevention programs designed to address risk factors related to violent criminal acts by

juveniles, child abuse and neglect, domestic violence, teen pregnancy and male parentage, suicide attempts, substance abuse, and dropping out of school. The legislature intends, through the appropriation of these funds, to address the underlying causes of violence and other at-risk behaviors of children and create an environment which promotes healthy behaviors and safe communities for children and their families.

The family policy council shall disburse funds under this subsection to community public health and safety networks who are in substantial compliance with chapter . . . , Laws of 1994 (this act) as determined by the council by rule. Funds provided under this subsection shall only be available upon application of a network to the council. The application and plan shall demonstrate the effectiveness of the program in terms of reaching its goals, specify the risk factors to be addressed and ameliorated, and provide clear and substantial evidence that additional funds will substantially improve the ability of the program to increase its effectiveness. In considering requests for funding under this section, the council may approve requests to:

(a) Provide technical assistance, planning grants, and grants of flexible funds to community public health and safety networks;

(b) Fund healthy family programs;

(c) Fund before- and after-school child care and therapeutic child care programs;

(d) Fund domestic violence programs;

(e) Fund safe schools/community programs; and

(f) Fund other services targeted at the risk factors specified in chapter . . . , Laws of 1994 (this act).

\*Sec. 919 was partially vetoed, see message at end of chapter.

NEW SECTION. Sec. 920. Section 201, chapter . . . (section 201 of Engrossed Substitute Senate Bill No. 6244), Laws of 1994 (uncodified) is repealed.

Passed the House March 11, 1994.

Passed the Senate March 11, 1994.

Approved by the Governor April 6, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 6, 1994.

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

"I am returning herewith, without my approval as to sections 302; 313; 323; 402(1)(d); 402(6), page 31, lines 11 through 26; 404(1)(b); 404(4)(a)(i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 entitled:

"AN ACT Relating to violence reduction programs;"

I applaud the legislature's commitment and hard work in passing Engrossed Second Substitute House Bill No. 2319. Youth violence is a serious problem that affects the long-term economic, social, and public safety interests of our state. It is not a problem that government alone can address, nor is it a problem that a single piece of legislation can cure.

This legislation is a balanced and responsible approach to curbing youth violence in our state. It is the beginning of a long process of giving hope and opportunity to our young people, while acknowledging that solutions to youth violence require a comprehensive approach including tough sentencing, effective prevention programs, and restricted access to firearms.

Even though I have vetoed certain sections of the bill—some for technical purposes and others, such as the sections pertaining to the media, for their overly-broad implications—our mission to create a future of hope for our young people remains intact.

My reasons for vetoing these sections are as follows:

#### **Section 302 - Definitions**

Section 302 establishes definitions for, among other things, the terms "at-risk," "at-risk behaviors," "protective factors," and "risk factors," and modifies the definition of "outcome" and "matching funds." In addition, this section expands the membership of the current 10-member Family Policy Council to include an unspecified number of additional representatives, bringing the total membership to at least 23 persons.

I am vetoing section 302 because I believe that the expansion of the Family Policy Council, as set forth in this section, is unworkable. Under this section, the additional members are to represent designated entities that have, by definition, a fiduciary interest in matters the council must act upon. This is a clear conflict of interest. In addition, the council's expansion will make it exceedingly difficult for the council to manage the implementation of this legislation in an efficient and effective fashion. Finally, the additional representation is duplicative of the community networks which have been given planning and administrative duties at the local level. Vetoing this section retains the Family Policy Council in its current manageable configuration.

However, because I believe that the Family Policy Council would benefit from the expertise of those who represent the entities described in section 302, I will create by Executive Order the Family Policy Council Advisory Committee. Appointments to the advisory committee will be made before June, 1994, so the council can benefit from the committee's advice during the implementation of family services restructuring.

With respect to the other definitions in section 302, I am instructing the Family Policy Council to use those definitions in rule making and to include them in family services restructuring legislation developed for next session.

#### **Section 313 - Federal Funding Standards**

This section prohibits state agencies from placing any program requirements, except those necessary to meet federal funding standards, on grant funds awarded to community networks.

Allowing communities more flexibility in their use of funds for programs serving children and families is a significant intent of family services restructuring. However, this section goes too far by preventing the state from requiring that the use of these funds be consistent with important state interests and priorities if they differ from or exceed federal requirements. I believe that the state must not abrogate its responsibility for accountability in the expenditure of tax dollars. In addition, I am concerned that this section would limit our ability to achieve equitable distribution of funds to underserved populations. Furthermore, this language would limit the state's ability to ensure that community networks give priority to clients most likely to use state-funded entitlement programs.

#### **Section 323 - Governor's Appointment Deadline**

Section 323 specifies that the governor shall appoint the new members of the Family Policy Council by May 1, 1994. Since I have vetoed section 302, this section is not necessary.

#### **Section 402(1)(d); section 402(6), page 31, lines 11 through 26; section 404(1)(b); and section 404(4)(a)(i); - Involuntary Commitment**

Current law makes it illegal for persons committed by court order for treatment of mental illness to possess a firearm. Section 402(1)(d); section 402(6), page 31, lines 11—26; section 404(1)(b); and section 404(4)(a)(i), expand this law by making it illegal for persons who are "voluntarily committed" for mental health treatment for a period

exceeding 14 continuous days to possess a firearm. This prohibition applies regardless of the reason a person voluntarily seeks such treatment or of the nature of his or her mental health problems. Serious questions are raised as to the range of circumstances and treatment programs which might fall under the definition of voluntary commitment. While I share the concern of the legislature that persons who present a danger to themselves, to others, or to the public should not possess firearms, the prohibition in this section is far too broad and will apply to many people who need the temporary help of mental health professionals but who do not pose a danger to society. My key concern is the chilling effect this provision would have on persons who would otherwise seek mental health treatment. I am confident that such a result was not intended by the legislature and that the extent of these criminal sanctions can be better defined and limited in future legislation. Further, the possibility of retroactive application to those who currently possess firearms or concealed pistol licenses has been raised by legal experts.

#### **Section 431 - Firearm Range Training and Practice Facility**

Section 431 requires that local governments maintain firearm range training and practice facilities at their current level by requiring that any capacity reduction must be replaced within 30 days. This mandate creates an entitlement for a select group of enthusiasts. Local jurisdictions have no more inherent responsibility to maintain public firing ranges than they do to maintain bowling alleys or pool halls. This is an inappropriate infringement on local jurisdictions.

#### **Section 438 - Disclosure of Firearms Application Information**

Section 438 exempts from public disclosure, information and records relating to firearm license applications and pistol purchases, sales, and transfers. This section represents a dramatic expansion of the current exemption for concealed pistol licenses. I believe that the proposed expansion is unwise and unwarranted. Disclosure of information relating to licenses is governed by the public records law which favors full disclosure. Section 438 would contravene this well-established policy by excluding from disclosure a broad category of information relating to the licensing of firearms. I am unaware of any evidence that would justify such an exemption.

#### **Section 606 and section 607 - Information Released to School Officials**

Section 606 allows court and law enforcement personnel to share a student's confidential police and court records with school officials. These records could include sensitive psychological and/or psychiatric information about the student and his or her family. Because this section lacks any criteria to govern school officials' requests for these sensitive records, I am concerned that their release may not be in the student's best interest.

Moreover, the amendments in these sections create a significant inconsistency in the availability of information between the criminal justice/social service system and school officials. Where criminal justice and social service officials must obtain a court order or subpoena to receive confidential student records, school officials are only required to provide 72 hours notice to the student's parents to receive his or her social file, diversion record, police contact record, or arrest record. Current law provides schools with access to a student's non confidential police and court records. With the veto of section 606, section 607 is unnecessary.

Notwithstanding these vetoes, I agree that the prudent exchange of even sensitive information among public agencies dealing with children and youth is desirable. Therefore, I am urging the Department of Social and Health Services (DSHS) and the Office of the Superintendent of Public Instruction (OSPI) to expand the scope of section 609. This section directs them to review statutes and rules relative to the sharing or exchange of information about children who are the subject of child abuse and neglect or who are charged with criminal behavior. Specifically, I am directing DSHS and OSPI to review, in conjunction with the Office of the Administrator for the Courts (OAC), the broader continuum of information exchange issues to eliminate impediments to the efficient sharing of information that is consistent with the best interests of the child. If necessary, legislation will be offered in the 1995 legislative session to improve this cooperative exchange.

#### **Section 802 - Definitions**

This section defines the terms "time/channel lock," "video," "violence," and "virtual reality," as used in sections 803, 804, 809 and 810. The definition of "time/channel lock" is unnecessarily restrictive, requiring the ability to block both selected times and channels from viewing. Moreover, this definition does not take into account new technology which will allow television owners to block selected programming. The remaining definitions are unnecessary in light of my decision to veto sections 804, 809, and 810. Accordingly, I am vetoing section 802.

#### Section 804 - Age-Based Rating

Section 804 requires the display of an age-based rating on all motion pictures, video cassettes, video games, virtual reality games, and television programming sold or rented in the state. The age-rating determination must include an objective evaluation and an estimate of the number of violent incidents represented in the material being rated.

Parents and others are understandably concerned over children's exposure to violence in videos, video and virtual reality games, movies, and television programming. The purpose of this section is to assist parents and other responsible adults in determining what is reasonable, age-appropriate viewing for our children and our youth. I share the concerns of parents and fully support the intent of this section. However, this section is drafted so broadly that it gives rise to serious problems which I believe justify a veto.

As written, this section would require that every video store be rated or re-rated consistent with the stated criteria. This requirement, which applies to videos that are already in the marketplace, as well as to future releases, is unworkable. Many videos, including videos of movies produced before the creation of the age-rating system developed by the Motion Picture Association of America (MPAA), and videos of television movies, currently lack any age rating. Even those videos of movies that have a MPAA age rating would require a re-rating because the MPAA rating is not based exclusively upon an objective evaluation, nor does it include an estimate of the number of violent incidents represented in the material being rated as is required under this section. Therefore, this section would impose on motion picture and video suppliers the burden of rating and re-rating movies and videos solely for Washington state consumers. In addition, it would impose on video retailers an overwhelming burden of sending back thousands of titles to suppliers for ratings and re-ratings. These burdens could seriously disrupt the sale and rental of all videos and force hundreds of video retailers in our state to close. I also believe this section is unworkable as it applies to television programming, particularly news broadcasts.

Further, section 804 requires that the age-rating determination be based solely upon objective factors, such as the number of violent incidents, as opposed to more subjective factors, such as the gratuitous nature of the violence depicted. Thus, under this system, a movie about the civil war that includes battle scenes could receive the same age rating as Terminator II.

Due in large part to congressional pressure, the television, cable, video game, and motion picture industries are already working to reduce the level of gratuitous violence in their respective medium, as well as to provide more information to parents so they can make informed decisions about their children's television viewing. Parental advisories and warnings now appear before television programs containing depictions of violence that may not be suitable for children's viewing. In addition, the networks have agreed to retain an outside monitor to assess the content of their programming. Furthermore, the cable industry has pledged to develop a rating system and to use an external monitoring group to track programming and to report on violence. The video game industry is also developing an age-rating system which is scheduled to be in operation by the end of the year. The motion picture industry is continuing to discuss the treatment of violence in movies.

Notwithstanding the veto of this section, I urge the television and video game industries to follow through on their commitment to reduce levels of violent programming and to provide parents with more information about violent content. I also urge the motion picture industry to begin taking concrete steps to reduce the level of gratuitous violence in movies. Further, I encourage the media to report these and other violence reduction efforts as provided in section 205. Finally, I encourage parents to become aware

of what their children are viewing and to restrict their children's viewing as appropriate. I believe that the provisions contained in section 803 will assist parents in this endeavor.

**Section 805 - Anti-violence Public Service Messages**

Section 805 contains a statement encouraging television and broadcast stations, including cable stations, video rental companies, and print media, to broadcast anti-violence public service messages. I fully concur with this statement as these messages are an important complement to community-based violence prevention efforts. During the past several months, I have met with numerous representatives from the media who have expressed strong interest in airing, producing, and printing anti-violence messages as a public service.

Unfortunately, however, section 805 requires that the content of all such messages be developed by the Family Policy Council. I believe this requirement is unduly restrictive. Media around the state are already broadcasting and printing anti-violence messages that have been developed at the national or local levels. Moreover, President Clinton recently announced that the television networks, cable program services, and video providers will begin showing violence prevention public service announcements that were developed in cooperation with the White House and the Ad Council. I believe that these ongoing efforts are highly desirable and that the Family Policy Council should build upon, not displace, such efforts.

**Section 809 - Profiting from Violence-Related Products**

Section 809 requires the Department of General Administration to establish a policy of refusing to purchase goods and services from any business or corporation, including parent corporations, which profit from violence-related products or services. I support the intent of Section 804 to limit the exposure of young people to violence-related products and to discourage corporations from profiting from such products. However, the language of this section is too broad and too vague to be meaningfully implemented and also raises serious legal questions.

**Section 810 - Profiting from Violence-Related Products**

Section 810 requires the State Investment Board (SIB) to study and examine the extent to which it maintains investments in businesses or corporations, including parent corporations, profiting from violence-related products or services and to report the results to the legislature by December 1, 1995. While I support the intent of this section, it has the same flaws and raises the same concerns as section 809. In addition, funds to conduct the study were not included in the SIB budget.

**Section 919(8) - Children and Family Services - Appropriation**

Section 919(8) provides \$4,142,000 General Fund-State and \$1,858,000 General Fund-Federal to DSHS, Division of Children and Family Services (DCFS), to implement family services restructuring and youth violence prevention program provisions in this bill. I am vetoing this section to allow the department to maintain total funding levels intended in the Children and Family Services appropriations while adjusting the use of state and federal funds in order to ensure that the state meets the federal requirements for the Family Preservation and Support Act. I will direct the department to adhere to the intent of this proviso.

The total DCFS appropriation provides federal authority totaling \$2,693,000 for new funds (Title IVB-2) authorized under the 1993 federal Family Preservation and Support Act. The budget appropriates the new funds for two purposes. First, \$1,858,000 is appropriated in section 919(8) to support the activities of community public health and safety networks established by this bill. Second, \$835,000 is appropriated for enhancements to therapeutic child development programs. The enhancement for therapeutic child development is not covered by a proviso.

The appropriation, by using Family Preservation and Support Act funds for enhancements to therapeutic child development programs, places the state's receipt of these funds at risk. The proposed veto would allow adjustments to funding sources that would not cause a net change in total expenditures.

With the exception of sections 302; 313; 323; 402(1)(d); 402(6), page 31, lines 11 through 26; 404(1)(b); 404(4)(a)(i); 431; 438; 606; 607; 802; 804; 805; 809; 810; and 919(8), Engrossed Second Substitute House Bill No. 2319 is approved."

**CHAPTER 8**

[Engrossed House Bill 2670]

**PROPERTY TAX RELIEF FOR SENIOR CITIZENS  
AND DISABILITY RETIREES**

AN ACT Relating to property tax relief for senior citizens and persons retired by reason of physical disability; amending RCW 84.36.381 and 84.36.383; and providing a contingent effective date.

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

**Sec. 1.** RCW 84.36.381 and 1993 c 178 s 1 are each amended to read as follows:

A person shall be exempt from any legal obligation to pay all or a portion of the amount of excess and regular real property taxes due and payable in the year following the year in which a claim is filed, and thereafter, in accordance with the following:

(1) The property taxes must have been imposed upon a residence which was occupied by the person claiming the exemption as a principal place of residence as of ~~((January 1st of the year for which the exemption is claimed))~~ the time of filing: PROVIDED, That any person who sells, transfers, or is displaced from his or her residence may transfer his or her exemption status to a replacement residence, but no claimant shall receive an exemption on more than one residence in any year: PROVIDED FURTHER, That confinement of the person to a hospital or nursing home shall not disqualify the claim of exemption if:

- (a) The residence is temporarily unoccupied;
- (b) The residence is occupied by a spouse and/or a person financially dependent on the claimant for support; or
- (c) The residence is rented for the purpose of paying nursing home or hospital costs;

(2) The person claiming the exemption must have owned, at the time of filing, in fee, as a life estate, or by contract purchase, the residence on which the property taxes have been imposed or if the person claiming the exemption lives in a cooperative housing association, corporation, or partnership, such person must own a share therein representing the unit or portion of the structure in which he or she resides. For purposes of this subsection, a residence owned by a marital community or owned by cotenants shall be deemed to be owned by each spouse or cotenant, and any lease for life shall be deemed a life estate;

(3) The person claiming the exemption must be sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of physical disability: PROVIDED, That any surviving spouse of a person who was receiving an exemption at the time of the person's death shall



qualify if the surviving spouse is fifty-seven years of age or older and otherwise meets the requirements of this section;

(4) The amount that the person shall be exempt from an obligation to pay shall be calculated on the basis of combined disposable income, as defined in RCW 84.36.383. If the person claiming the exemption was retired for two months or more of the (~~preceding~~) assessment year, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person claiming exemption is reduced for two or more months of the (~~preceding~~) assessment year by reason of the death of the person's spouse, or when other substantial changes occur in disposable income that are likely to continue for an indefinite period of time, the combined disposable income of such person shall be calculated by multiplying the average monthly combined disposable income of such person after (~~the death of the spouse~~) such occurrences by twelve. If it is necessary to estimate income to comply with this subsection, the assessor may require confirming documentation of such income prior to May 31 of the year following application.

(5)(a) A person who otherwise qualifies under this section and has a combined disposable income of (~~twenty-six~~) twenty-eight thousand dollars or less shall be exempt from all excess property taxes; and

(b)(i) A person who otherwise qualifies under this section and has a combined disposable income of eighteen thousand dollars or less but greater than fifteen thousand dollars shall be exempt from all regular property taxes on the greater of thirty thousand dollars or thirty percent of the valuation of his or her residence, but not to exceed fifty thousand dollars of the valuation of his or her residence; or

(ii) A person who otherwise qualifies under this section and has a combined disposable income of fifteen thousand dollars or less shall be exempt from all regular property taxes on the greater of thirty-four thousand dollars or fifty percent of the valuation of his or her residence.

(6) For a person who otherwise qualifies under this section and has a combined disposable income of twenty-eight thousand dollars or less, the taxable value of the residence shall not exceed the lesser of (a) the assessed value of the residence as reduced by the exemption under subsection (5) of this section, if any, or (b) the taxable value of the residence for the previous year, increased by the inflation factor for the assessment year. For counties that do not revalue property annually, the amount under (b) of this subsection shall be the previous taxable value increased by the inflation factor for each assessment year since the previous revaluation of the residence. As used in this section, "inflation factor" means the percentage change used by the federal government in adjusting social security payments for inflation at the beginning of each year. The department shall provide inflation factors to the county assessors annually.

Sec. 2. RCW 84.36.383 and 1991 c 213 s 4 are each amended to read as follows:

As used in RCW 84.36.381 through 84.36.389, except where the context clearly indicates a different meaning:

(1) The term "residence" shall mean a single family dwelling unit whether such unit be separate or part of a multiunit dwelling, including the land on which such dwelling stands not to exceed one acre. The term shall also include a share ownership in a cooperative housing association, corporation, or partnership if the person claiming exemption can establish that his or her share represents the specific unit or portion of such structure in which he or she resides. The term shall also include a single family dwelling situated upon lands the fee of which is vested in the United States or any instrumentality thereof including an Indian tribe or in the state of Washington, and notwithstanding the provisions of RCW 84.04.080(~~(?)~~) and 84.04.090 (~~(or 84.40.250)~~), such a residence shall be deemed real property.

(2) The term "real property" shall also include a mobile home which has substantially lost its identity as a mobile unit by virtue of its being fixed in location upon land owned or leased by the owner of the mobile home and placed on a foundation (posts or blocks) with fixed pipe, connections with sewer, water, or other utilities: PROVIDED, That a mobile home located on land leased by the owner of the mobile home shall be subject, for tax billing, payment, and collection purposes, only to the personal property provisions of chapter 84.56 RCW and RCW 84.60.040.

(3) (~~The term "preceding calendar year" shall mean the calendar year preceding the year in which the claim for exemption is to be made.~~

~~(4))~~ "Department" shall mean the state department of revenue.

~~((5))~~ (4) "Combined disposable income" means the disposable income of the person claiming the exemption, plus the disposable income of his or her spouse, and the disposable income of each cotenant occupying the residence for the (~~preceding calendar~~) assessment year, less amounts paid by the person claiming the exemption or his or her spouse during the (~~previous~~) assessment year for the treatment or care of either person received in the home or in a nursing home.

~~((6))~~ (5) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(a) Capital gains, other than nonrecognized gain on the sale of a principal residence under section 1034 of the federal internal revenue code, or gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(b) Amounts deducted for loss;

(c) Amounts deducted for depreciation;

(d) Pension and annuity receipts;

- (e) Military pay and benefits other than attendant-care and medical-aid payments;
- (f) Veterans benefits other than attendant-care and medical-aid payments;
- (g) Federal social security act and railroad retirement benefits;
- (h) Dividend receipts; and
- (i) Interest received on state and municipal bonds.

((7)) (6) "Cotenant" means a person who resides with the person claiming the exemption and who has an ownership interest in the residence.

**NEW SECTION. Sec. 3.** This act shall take effect on July 1st of the year in which specific funding for the administrative costs associated with this act, referencing this act by bill or session law number, is provided in an appropriations act, and this act shall be effective for taxes levied for collection in the year following the year in which the funding is provided, and thereafter.

Passed the House March 14, 1994.

Passed the Senate March 14, 1994.

Approved by the Governor April 6, 1994.

Filed in Office of Secretary of State April 6, 1994.

## CHAPTER 9

[Engrossed Substitute House Bill 2676]

### RESTRUCTURING OF STATE BOARDS, COMMITTEES, COMMISSIONS, AND COUNCILS

AN ACT Relating to the restructuring of boards, committees, commissions, and councils; amending RCW 18.25.005, 18.25.006, 18.25.019, 18.25.020, 18.25.025, 18.25.030, 18.25.035, 18.25.040, 18.25.070, 18.25.075, 18.25.180, 18.25.190, 18.32.010, 18.32.030, 18.32.040, 18.32.050, 18.32.100, 18.32.120, 18.32.160, 18.32.180, 18.32.190, 18.32.195, 18.32.215, 18.32.534, 18.32.640, 18.32.655, 18.32.665, 18.32.745, 18.32.755, 18.71.010, 18.71.017, 18.71.019, 18.71.050, 18.71.051, 18.71.055, 18.71.060, 18.71.070, 18.71.085, 18.71.090, 18.71.095, 18.71.205, 18.71.230, 18.71A.010, 18.71A.020, 18.71A.030, 18.71A.040, 18.71A.045, 18.71A.050, 18.71A.060, 18.71A.085, 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.340, 18.72.345, 18.19.070, 18.06.080, 18.55.020, 18.84.020, 18.84.040, 18.84.070, 18.84.090, 18.84.110, 18.89.020, 18.89.050, 18.89.080, 18.135.030, 18.138.070, 18.130.010, 18.130.020, 18.130.040, 18.130.300, 4.24.260, 4.24.290, 5.62.010, 18.50.032, 18.50.040, 18.50.140, 18.50.115, 18.88A.020, 18.88A.030, 18.88A.060, 18.88A.080, 18.88A.085, 18.88A.090, 18.88A.130, 18.89.040, 18.100.140, 18.120.020, 18.135.020, 28A.210.260, 28A.210.280, 28A.210.290, 28C.10.030, 41.05.075, 41.05.180, 42.17.316, 43.70.220, 48.20.393, 48.20.411, 48.21.141, 48.21.225, 48.44.026, 48.44.290, 48.44.325, 48.46.275, 69.41.030, 69.45.010, 69.50.101, 69.50.402, 70.02.030, 70.41.200, 70.41.210, 70.41.230, 70.127.250, 70.180.030, 71.24.025, 74.09.290, 74.42.010, 74.42.230, 74.42.240, 74.42.380, 41.04.395, 43.19.558, 43.19.554, 70.148.030, 70.175.030, 78.52.010, 78.52.025, 78.52.030, 78.52.031, 78.52.032, 78.52.033, 78.52.035, 78.52.037, 78.52.040, 78.52.050, 78.52.070, 78.52.100, 78.52.120, 78.52.125, 78.52.140, 78.52.150, 78.52.155, 78.52.200, 78.52.205, 78.52.210, 78.52.220, 78.52.230, 78.52.240, 78.52.245, 78.52.250, 78.52.257, 78.52.260, 78.52.270, 78.52.280, 78.52.290, 78.52.300, 78.52.310, 78.52.320, 78.52.330, 78.52.335, 78.52.365, 78.52.460, 78.52.463, 78.52.467, 78.52.470, 78.52.480, 78.52.490, 78.52.530, 78.52.540, 90.48.366, 90.54.190, 28A.170.050, 43.43.390, 43.70.410, 43.70.420, 44.40.070, 46.01.030, 46.52.120, 46.82.300, 46.90.010, and 47.01.250; reenacting and amending RCW 18.71.015, 18.71.030, 18.71.080, 18.71.030, 18.88A.100, 69.41.010, 71.05.210, 75.30.050, and 43.03.028; adding new sections to chapter 18.25 RCW; adding new sections to chapter 18.32 RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.130 RCW; adding a new section to chapter 75.30 RCW; adding new sections to chapter 88.46 RCW; adding new sections to chapter 43.41 RCW; adding new sections to chapter 43.06 RCW; adding new sections to chapter 43.43 RCW; creating new sections; adding a new chapter to Title 18 RCW; recodifying RCW

18.25.120, 18.25.130, 18.25.140, 18.25.150, 18.25.160, 18.25.170, 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.340, 18.72.345, 18.72.010, 18.72.321, 18.72.380, 18.72.390, and 18.72.400; repealing RCW 18.25.015, 18.25.016, 18.25.017, 18.26.010, 18.26.020, 18.26.028, 18.26.030, 18.26.040, 18.26.050, 18.26.060, 18.26.070, 18.26.080, 18.26.090, 18.26.110, 18.26.320, 18.26.330, 18.26.330, 18.26.350, 18.26.360, 18.26.370, 18.26.380, 18.26.390, 18.26.900, 18.32.035, 18.32.037, 18.32.042, 18.32.500, 18.32.510, 18.32.520, 18.32.560, 18.32.570, 18.32.580, 18.32.590, 18.32.600, 18.32.610, 18.32.620, 18.72.020, 18.72.045, 18.72.090, 18.72.100, 18.72.110, 18.72.120, 18.72.130, 18.72.150, 18.72.154, 18.72.190, 18.72.900, 18.72.910, 18.78.005, 18.78.010, 18.78.020, 18.78.030, 18.78.040, 18.78.050, 18.78.054, 18.78.055, 18.78.058, 18.78.060, 18.78.070, 18.78.072, 18.78.080, 18.78.090, 18.78.100, 18.78.160, 18.78.182, 18.78.225, 18.78.900, 18.78.901, 18.88.010, 18.88.020, 18.88.030, 18.88.050, 18.88.060, 18.88.070, 18.88.080, 18.88.086, 18.88.090, 18.88.100, 18.88.110, 18.88.120, 18.88.130, 18.88.140, 18.88.150, 18.88.160, 18.88.170, 18.88.175, 18.88.190, 18.88.200, 18.88.220, 18.88.270, 18.88.280, 18.88.285, 18.88.290, 18.88.295, 18.88.300, 18.88.900, 18.88A.070, 18.06.170, 18.84.060, 18.89.070, 18.138.080, 18.85.500, 27.34.030, 27.34.040, 27.34.050, 43.19.1902, 43.19.556, 43.21A.170, 43.21A.180, 43.21A.190, 43.21A.200, 43.21A.210, 43.200.050, 43.230.010, 43.230.020, 43.230.030, 43.230.040, 48.17.135, 49.70.120, 49.70.130, 67.34.011, 67.34.021, 70.94.039, 73.40.020, 73.40.050, 78.52.020, 88.44.005, 88.44.010, 88.44.020, 88.44.030, 88.44.040, 88.44.080, 88.44.090, 88.44.100, 88.44.110, 88.44.120, 88.44.130, 88.44.140, 88.44.150, 88.44.160, 88.44.170, 88.44.180, 88.44.190, 88.44.200, 88.44.210, 88.44.220, 88.44.900, 88.44.901, 88.46.110, 43.59.010, 43.59.020, 43.59.030, 43.59.040, 43.59.050, 43.59.060, 43.59.070, 43.59.080, 43.59.130, and 43.59.140; repealing 1984 c 286 s 13 (uncodified); prescribing penalties; providing an effective date; and declaring an emergency.

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

### CHIROPRACTIC

**NEW SECTION. Sec. 101.** A new section is added to chapter 18.25 RCW to read as follows:

This chapter is enacted:

(1) In the exercise of the police power of the state and to provide an adequate public agency to act as a disciplinary body for the members of the chiropractic profession licensed to practice chiropractic in this state;

(2) Because the health and well-being of the people of this state are of paramount importance;

(3) Because the conduct of members of the chiropractic profession licensed to practice chiropractic in this state plays a vital role in preserving the health and well-being of the people of the state; and

(4) Because practicing other healing arts while licensed to practice chiropractic and while holding one's self out to the public as a chiropractor affects the health and welfare of the people of the state.

It is the purpose of the commission established under section 104 of this act to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state.

**Sec. 102.** RCW 18.25.005 and 1992 c 241 s 2 are each amended to read as follows:

(1) Chiropractic is the practice of health care that deals with the diagnosis or analysis and care or treatment of the vertebral subluxation complex and its effects, articular dysfunction, and musculoskeletal disorders, all for the

restoration and maintenance of health and recognizing the recuperative powers of the body.

(2) Chiropractic treatment or care includes the use of procedures involving spinal adjustments, and extremity manipulation insofar as any such procedure is complementary or preparatory to a chiropractic spinal adjustment. Chiropractic treatment also includes the use of heat, cold, water, exercise, massage, trigger point therapy, dietary advice and recommendation of nutritional supplementation except for medicines of herbal, animal, or botanical origin, the normal regimen and rehabilitation of the patient, first aid, and counseling on hygiene, sanitation, and preventive measures. Chiropractic care also includes such physiological therapeutic procedures as traction and light, but does not include procedures involving the application of sound, diathermy, or electricity.

(3) As part of a chiropractic differential diagnosis, a chiropractor shall perform a physical examination, which may include diagnostic x-rays, to determine the appropriateness of chiropractic care or the need for referral to other health care providers. The chiropractic (~~(disciplinary board)~~) quality assurance commission shall provide by rule for the type and use of diagnostic and analytical devices and procedures consistent with this chapter.

(4) Chiropractic care shall not include the prescription or dispensing of any medicine or drug, the practice of obstetrics or surgery, the use of x-rays or any other form of radiation for therapeutic purposes, colonic irrigation, or any form of venipuncture.

(5) Nothing in this chapter prohibits or restricts any other practitioner of a "health profession" defined in RCW 18.120.020(4) from performing any functions or procedures the practitioner is licensed or permitted to perform, and the term "chiropractic" as defined in this chapter shall not prohibit a practitioner licensed under chapter 18.71 RCW from performing medical procedures, except such procedures shall not include the adjustment by hand of any articulation of the spine.

**Sec. 103.** RCW 18.25.006 and 1992 c 241 s 3 are each amended to read as follows:

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

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

(2) "Secretary" means the secretary of the department of health or the secretary's designee.

(3) "Chiropractor" means an individual licensed under this chapter.

(4) (~~"Board" means the Washington state board of chiropractic examiners.~~) "Commission" means the Washington state chiropractic quality assurance commission.

(5) "Vertebral subluxation complex" means a functional defect or alteration of the biomechanical and physiological dynamics in a joint that may cause neuronal disturbances, with or without displacement detectable by x-ray. The effects of the vertebral subluxation complex may include, but are not limited to,

any of the following: Fixation, hypomobility, hypermobility, periarticular muscle spasm, edema, or inflammation.

(6) "Articular dysfunction" means an alteration of the biomechanical and physiological dynamics of a joint of the axial or appendicular skeleton.

(7) "Musculoskeletal disorders" means abnormalities of the muscles, bones, and connective tissue.

(8) "Chiropractic differential diagnosis" means a diagnosis to determine the existence of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder, and the appropriateness of chiropractic care or the need for referral to other health care providers.

(9) "Chiropractic adjustment" means chiropractic care of a vertebral subluxation complex, articular dysfunction, or musculoskeletal disorder. Such care includes manual or mechanical adjustment of any vertebral articulation and contiguous articulations beyond the normal passive physiological range of motion.

(10) "Extremity manipulation" means a corrective thrust or maneuver applied to a joint of the appendicular skeleton. The use of extremity manipulation shall be complementary and preparatory to a chiropractic spinal adjustment to support correction of a vertebral subluxation complex and is considered a part of a spinal adjustment and shall not be billed separately from or in addition to a spinal adjustment.

**NEW SECTION. Sec. 104.** A new section is added to chapter 18.25 RCW to read as follows:

**COMMISSION ESTABLISHED—MEMBERS APPOINTED BY THE GOVERNOR.** The Washington state chiropractic quality assurance commission is established, consisting of fourteen members appointed by the governor to four-year terms, and including eleven practicing chiropractors and three public members. No member may serve more than two consecutive full terms. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the governor appoint members of the previous boards and committees regulating this profession to the commission. Members of the commission hold office until their successors are appointed. The governor may appoint the members of the initial commissions to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. The governor may consider persons who are recommended for appointment by chiropractic associations of this state.

**NEW SECTION. Sec. 105.** A new section is added to chapter 18.25 RCW to read as follows:

**COMMISSION—REMOVAL OF MEMBERS—VACANCIES.** The governor may remove a member of the commission for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with

the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the commission, the governor shall appoint a replacement to fill the remainder of the unexpired term.

NEW SECTION. Sec. 106. A new section is added to chapter 18.25 RCW to read as follows:

**COMMISSION—QUALIFICATIONS OF MEMBERS.** Members must be citizens of the United States and residents of this state. Members must be licensed chiropractors for a period of five years before appointment. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

NEW SECTION. Sec. 107. A new section is added to chapter 18.25 RCW to read as follows:

**COMMISSION—DUTIES AND POWERS.** The commission shall elect officers each year. Meetings of the commission are open to the public, except that the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW. The secretary of health shall furnish such secretarial, clerical, and other assistance as the commission may require.

Each member of the commission shall be compensated in accordance with RCW 43.03.240. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050, and 43.03.060.

A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business. The affirmative vote of a majority of a quorum of the commission is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

The commission may appoint members of panels of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

The members of the commission are immune from suit in an action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the commission.

The commission may, whenever the workload of the commission requires, request that the secretary appoint pro tempore members. While serving as members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

The commission shall prepare or determine the nature of the examinations for applicants to practice chiropractic.

The commission may adopt such rules as are consistent with this chapter as may be deemed necessary and proper to carry out the purposes of this chapter.

**Sec. 108.** RCW 18.25.019 and 1987 c 150 s 12 are each amended to read as follows:

The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice ~~((and))~~, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**Sec. 109.** RCW 18.25.020 and 1991 c 3 s 38 are each amended to read as follows:

(1) Any person not now licensed to practice chiropractic in this state and who desires to practice chiropractic in this state, before it shall be lawful for him or her to do so, shall make application therefor to the secretary, upon such form and in such manner as may be adopted and directed by the secretary. Each applicant who matriculates to a chiropractic college after January 1, 1975, shall have completed not less than one-half of the requirements for a baccalaureate degree at an accredited and approved college or university and shall be a graduate of a chiropractic school or college accredited and approved by the ~~((board of chiropractic examiners))~~ commission and shall show satisfactory evidence of completion by each applicant of a resident course of study of not less than four thousand classroom hours of instruction in such school or college. Applications shall be in writing and shall be signed by the applicant in his or her own handwriting and shall be sworn to before some officer authorized to administer oaths, and shall recite the history of the applicant as to his or her educational advantages, his or her experience in matters pertaining to a knowledge of the care of the sick, how long he or she has studied chiropractic, under what teachers, what collateral branches, if any, he or she has studied, the length of time he or she has engaged in clinical practice; accompanying the same by reference therein, with any proof thereof in the shape of diplomas, certificates, and shall accompany said application with satisfactory evidence of good character and reputation.

(2) There shall be paid to the secretary by each applicant for a license, a fee determined by the secretary as provided in RCW 43.70.250 which shall accompany application and a fee determined by the secretary as provided in RCW 43.70.250, which shall be paid upon issuance of license. Like fees shall be paid for any subsequent examination and application.

**Sec. 110.** RCW 18.25.025 and 1980 c 51 s 3 are each amended to read as follows:

The ~~((board))~~ commission shall have authority to grant accreditation to chiropractic schools and colleges.

The ~~((board))~~ commission shall have authority to adopt educational standards which may include standards of any accreditation agency recognized by the office of education of the department of health and human services or its successor agency, or any portion of such standards, as the ~~((board's))~~



commission's standards: PROVIDED, That such standards, so adopted, shall contain, as a minimum of on-campus instruction in chiropractic, the following: Principles of chiropractic, two hundred hours; adjustive technique, four hundred hours; spinal roentgenology, one hundred seventy-five hours; symptomatology and diagnosis, four hundred twenty-five hours; clinic, six hundred twenty-five hours: PROVIDED FURTHER, That such standards shall not mandate, as a requirement for either graduation or accreditation, or include in the computation of hours of chiropractic instruction required by this section, instruction in the following: Mechanotherapy, physiotherapy, acupuncture, acupressure, or any other therapy.

The ~~((board))~~ commission shall approve and accredit chiropractic colleges and schools which apply for ~~((board))~~ commission accreditation and approval and which meet to the ~~((board's))~~ commission's satisfaction the educational standards adopted by the ~~((board))~~ commission. It shall be the responsibility of the college to apply for accreditation and approval, and of a student to ascertain whether a college or school has been accredited or approved by the ~~((board))~~ commission.

The ~~((board))~~ commission shall have authority to engage assistants in the giving of examinations called for under this chapter.

**Sec. 111.** RCW 18.25.030 and 1989 c 258 s 4 are each amended to read as follows:

Examinations for license to practice chiropractic shall be made by the ~~((board of chiropractic examiners))~~ commission according to the method deemed by it to be the most practicable and expeditious to test the applicant's qualifications. Such application shall be designated by a number instead of his or her name, so that the identity shall not be discovered or disclosed to the members of the ~~((examining committee))~~ commission until after the examination papers are graded.

All examinations shall be in whole or in part in writing, the subject of which shall be as follows: Anatomy, physiology, spinal anatomy, microbiology-public health, general diagnosis, neuromuscularskeletal diagnosis, x-ray, principles of chiropractic and adjusting, as taught by chiropractic schools and colleges. The ~~((board))~~ commission shall administer a practical examination to applicants which shall consist of diagnosis, principles and practice, x-ray, and adjustive technique consistent with chapter 18.25 RCW. A license shall be granted to all applicants whose score over each subject tested is seventy-five percent. The ~~((board))~~ commission may enact additional requirements for testing administered by the national board of chiropractic examiners.

**Sec. 112.** RCW 18.25.035 and 1971 ex.s. c 227 s 5 are each amended to read as follows:

The ~~((board))~~ commission may, in its discretion, waive any examination required by this chapter of persons applying for a license to practice chiropractic if, in its opinion, the applicant has successfully passed an examination conducted by the national board of chiropractic examiners of the United States that is of

equal or greater difficulty than the examination being waived by the ~~((board))~~ commission.

**Sec. 113.** RCW 18.25.040 and 1991 c 320 s 8 are each amended to read as follows:

Persons licensed to practice chiropractic under the laws of any other state, territory of the United States, the District of Columbia, Puerto Rico, or province of Canada, having qualifications substantially equivalent to those required by this chapter, may, in the discretion of the ~~((board of chiropractic examiners))~~ commission, and after such examination as may be required by rule of the ~~((board))~~ commission, be issued a license to practice in this state without further examination, upon payment of a fee determined by the secretary as provided in RCW 43.70.250.

**Sec. 114.** RCW 18.25.070 and 1991 c 3 s 40 are each amended to read as follows:

(1) Every person practicing chiropractic shall, as a prerequisite to annual renewal of license, submit to the secretary at the time of application therefor, satisfactory proof showing attendance of at least twenty-five hours during the preceding twelve-month period, at one or more chiropractic symposiums which are recognized and approved by the ~~((board of chiropractic examiners; PROVIDED, That the board))~~ commission. The commission may, for good cause shown, waive said attendance. The following guidelines for such symposiums shall apply:

(a) The ~~((board))~~ commission shall set criteria for the course content of educational symposia concerning matters which are recognized by the state of Washington chiropractic licensing laws; it shall be the licensee's responsibility to determine whether the course content meets these criteria;

(b) The ~~((board))~~ commission shall adopt standards for distribution of annual continuing education credit requirements;

(c) Rules shall be adopted by the ~~((board))~~ commission for licensees practicing and residing outside the state who shall meet all requirements established by rule of the ~~((board by rules and regulations))~~ commission.

(2) Every person practicing chiropractic within this state shall pay on or before his or her birth anniversary date, after a license is issued to him or her as ~~((herein))~~ provided in this chapter, to ~~((said))~~ the secretary a renewal license fee to be determined by the secretary as provided in RCW 43.70.250. The secretary shall, thirty days or more before the birth anniversary date of each chiropractor in the state, mail to that chiropractor a notice of the fact that the renewal fee will be due on or before his or her birth anniversary date. Nothing in this chapter shall be construed so as to require that the receipts shall be recorded as original licenses are required to be recorded.

The failure of any licensed chiropractor to pay his or her annual license renewal fee within thirty days of license expiration shall work a forfeiture of his or her license. It shall not be reinstated except upon evidence that continuing

educational requirements have been fulfilled and the payment of a penalty to be determined by the secretary as provided in RCW 43.70.250, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement. ~~((Should the licentiate))~~ If the licensee allows his or her license to ~~((elapse))~~ lapse for more than three years, he or she may be reexamined as provided for in RCW 18.25.040 at the discretion of the ~~((board))~~ commission.

**Sec. 115.** RCW 18.25.075 and 1991 c 3 s 41 are each amended to read as follows:

(1) An individual may place his or her license on inactive status. The holder of an inactive license shall not practice chiropractic in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with the rules established by the ~~((board))~~ commission.

(4) The provisions relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

NEW SECTION. **Sec. 116.** A new section is added to chapter 18.25 RCW to read as follows:

(1) In addition to those acts defined in chapter 18.130 RCW, the term "unprofessional conduct" as used in this chapter includes failing to differentiate chiropractic care from any and all other methods of healing at all times.

(2) Proceedings involving alleged unprofessional conduct shall be prosecuted by the attorney general upon the direction of the commission.

**Sec. 117.** RCW 18.25.180 and 1991 c 222 s 9 are each amended to read as follows:

(1) A chiropractor may employ a technician to operate x-ray equipment after the technician has registered with the ~~((board))~~ commission.

(2) The ~~((board))~~ commission may adopt rules necessary and appropriate to carry out the purposes of this section.

**Sec. 118.** RCW 18.25.190 and 1991 c 320 s 10 are each amended to read as follows:

Nothing in this chapter shall be construed to prohibit:

(1) The temporary practice in this state of chiropractic by any chiropractor licensed by another state, territory, or country in which he or she resides. However, the chiropractor shall not establish a practice open to the general public and shall not engage in temporary practice under this section for a period longer than thirty days. The chiropractor shall register his or her intention to engage in the temporary practice of chiropractic in this state with the ~~((board of chiroprac-~~

~~the examiners~~) commission before engaging in the practice of chiropractic, and shall agree to be bound by such conditions as may be prescribed by rule by the ~~((board))~~ commission.

(2) The practice of chiropractic, except the administration of a chiropractic adjustment, by a person who is a regular senior student in an accredited school of chiropractic approved by the ~~((board))~~ commission if the practice is part of a regular course of instruction offered by the school and the student is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the ~~((board))~~ commission.

(3) The practice of chiropractic by a person serving a period of postgraduate chiropractic training in a program of clinical chiropractic training sponsored by a school of chiropractic accredited in this state if the practice is part of his or her duties as a clinical postgraduate trainee and the trainee is under the direct supervision and control of a chiropractor duly licensed pursuant to this chapter and approved by the ~~((board))~~ commission.

(4) The practice of chiropractic by a person who is eligible and has applied to take the next available examination for licensing offered by the ~~((board of chiropractic examiners))~~ commission, except that the unlicensed chiropractor must provide all services under the direct control and supervision of a licensed chiropractor approved by the ~~((board))~~ commission. The unlicensed chiropractor may continue to practice as provided by this subsection until the results of the next available examination are published, but in no case for a period longer than six months. The ~~((board))~~ commission shall adopt rules necessary to effectuate the intent of this subsection.

Any provision of chiropractic services by any individual under subsection (1), (2), (3), or (4) of this section shall be subject to the jurisdiction of the ~~((chiropractic disciplinary board))~~ commission as provided in chapters 18.26 and 18.130 RCW.

NEW SECTION. **Sec. 119.** A new section is added to chapter 18.25 RCW to read as follows:

The commission is the successor in interest of the board of chiropractic examiners, the chiropractic disciplinary board, and the chiropractic peer review committee. All contracts, undertakings, agreements, rules, regulations, and policies of those bodies continue in full force and effect on the effective date of this act, unless otherwise repealed or rejected by chapter . . . , Laws of 1994 (this act) or by the commission.

NEW SECTION. **Sec. 120.** RCW 18.25.120, 18.25.130, 18.25.140, 18.25.150, 18.25.160, and 18.25.170 are each recodified within chapter 18.25 RCW between RCW 18.25.019 and 18.25.020.

NEW SECTION. **Sec. 121.** The following acts or parts of acts are each repealed:

(1) RCW 18.25.015 and 1989 c 258 s 1, 1984 c 279 s 49, 1980 c 51 s 1, 1965 ex.s. c 50 s 1, & 1959 c 53 s 1;

- (2) RCW 18.25.016 and 1989 c 258 s 13;
- (3) RCW 18.25.017 and 1991 c 3 s 37, 1986 c 259 s 23, 1984 c 287 s 27, 1975-'76 2nd ex.s. c 34 s 32, 1974 ex.s. c 97 s 8, & 1959 c 53 s 2;
- (4) RCW 18.26.010 and 1989 c 258 s 7 & 1967 c 171 s 1;
- (5) RCW 18.26.020 and 1991 c 3 s 43, 1989 c 258 s 8, & 1967 c 171 s 2;
- (6) RCW 18.26.028 and 1987 c 150 s 13 & 1986 c 259 s 22;
- (7) RCW 18.26.030 and 1986 c 259 s 25, 1979 ex.s. c 111 s 17, 1975 1st ex.s. c 39 s 1, 1974 ex.s. c 97 s 12, & 1967 c 171 s 3;
- (8) RCW 18.26.040 and 1989 c 258 s 9 & 1980 c 46 s 1;
- (9) RCW 18.26.050 and 1991 c 3 s 44, 1979 c 158 s 21, & 1967 c 171 s 5;
- (10) RCW 18.26.060 and 1967 c 171 s 6;
- (11) RCW 18.26.070 and 1991 c 3 s 45, 1984 c 287 s 28, & 1980 c 46 s 2;
- (12) RCW 18.26.080 and 1967 c 171 s 8;
- (13) RCW 18.26.090 and 1989 c 258 s 11 & 1967 c 171 s 9;
- (14) RCW 18.26.110 and 1986 c 259 s 26, 1975 1st ex.s. c 39 s 2, & 1967 c 171 s 11;
- (15) RCW 18.26.320 and 1991 c 320 s 1;
- (16) RCW 18.26.330 and 1991 c 320 s 2;
- (17) RCW 18.26.340 and 1991 c 320 s 3;
- (18) RCW 18.26.350 and 1991 c 320 s 4;
- (19) RCW 18.26.360 and 1991 c 320 s 5;
- (20) RCW 18.26.370 and 1991 c 320 s 6;
- (21) RCW 18.26.380 and 1991 c 320 s 7;
- (22) RCW 18.26.390 and 1991 c 320 s 11; and
- (23) RCW 18.26.900 and 1967 c 171 s 31.

## DENTAL

**NEW SECTION. Sec. 201.** A new section is added to chapter 18.32 RCW to read as follows:

The legislature finds that the health and well-being of the people of this state are of paramount importance.

The legislature further finds that the conduct of members of the dental profession licensed to practice dentistry in this state plays a vital role in preserving the health and well-being of the people of the state.

The legislature further finds that there is no effective means of handling disciplinary proceedings against members of the dental profession licensed in this state when such proceedings are necessary for the protection of the public health.

Therefore, the legislature declares its intention to exercise the police power of the state to protect the public health, to promote the welfare of the state, and to provide a commission to act as a disciplinary and regulatory body for the members of the dental profession licensed to practice dentistry in this state.

It is the purpose of the commission established in section 204 of this act to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for

licensure, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state.

**Sec. 202.** RCW 18.32.010 and 1991 c 3 s 58 are each amended to read as follows:

Words used in the singular in this chapter may also be applied to the plural of the persons and things; words importing the plural may be applied to the singular; words importing the masculine gender may be extended to females also; the term "~~((board))~~ commission" used in this chapter shall mean the Washington state ~~((board of dental examiners))~~ dental quality assurance commission; and the term "secretary" shall mean the secretary of health of the state of Washington.

**Sec. 203.** RCW 18.32.030 and 1991 c 3 s 59 are each amended to read as follows:

The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in Washington state dental schools or colleges approved by the ~~((board))~~ commission, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the ~~((board of dental examiners))~~ commission;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a

period of not less than three years and shall be available to and subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon or osteopathic physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by persons not licensed under this chapter when performed under the supervision of a licensed dentist: PROVIDED HOWEVER, That such nonlicensed person shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, and ~~((18.88 RCW:))~~ 18.— RCW (sections 401 through 431 of this act) as it applies to registered nurses and advanced registered nurse practitioners:

(a) Any removal of or addition to the hard or soft tissue of the oral cavity;

(b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(c) Any administration of general or injected local anaesthetic of any nature in connection with a dental operation, including intravenous sedation;

(d) Any oral prophylaxis;

(e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis.

NEW SECTION. Sec. 204. A new section is added to chapter 18.32 RCW to read as follows:

**COMMISSION ESTABLISHED—MEMBERS APPOINTED.** The Washington state dental quality assurance commission is established, consisting of fourteen members each appointed by the governor to a four-year term. No member may serve more than two consecutive full terms. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, members of the previous boards and committees regulating these professions be appointed to the commission. Members of the commission hold office until their successors are appointed. The governor may appoint members of the initial commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Twelve members of the commission must be dentists and two members must be public members.

NEW SECTION. Sec. 205. A new section is added to chapter 18.32 RCW to read as follows:

**COMMISSION—REMOVAL OF MEMBERS—VACANCIES.** The governor may remove a member of the commission for neglect of duty, misconduct, or malfeasance or misfeasance in office. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the order of removal and statement of causes by certified mail to the last known post office address of the member. If a vacancy occurs on the commission, the governor shall appoint a replacement to fill the remainder of the unexpired term.

**NEW SECTION. Sec. 206.** A new section is added to chapter 18.32 RCW to read as follows:

**COMMISSION—QUALIFICATIONS OF MEMBERS.** Members must be citizens of the United States and residents of this state. Dentist members must be licensed dentists in the active practice of dentistry for a period of five years before appointment. Of the twelve dentists appointed to the commission, at least four must reside and engage in the active practice of dentistry east of the summit of the Cascade mountain range. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

**NEW SECTION. Sec. 207.** A new section is added to chapter 18.32 RCW to read as follows:

**COMMISSION—DUTIES AND POWERS.** The commission shall elect officers each year. Meetings of the commission are open to the public, except the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW. The secretary of health shall furnish such secretarial, clerical, and other assistance as the commission may require.

A majority of the commission members appointed and serving constitutes a quorum for the transaction of commission business. The affirmative vote of a majority of a quorum of the commission is required to carry a motion or resolution, to adopt a rule, or to pass a measure.

The commission may appoint members of panels consisting of not less than three members. A quorum for transaction of any business shall be a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

The members of the commission are immune from suit in an action, civil or criminal, based upon its disciplinary proceedings or other official acts performed in good faith as members of the commission.

The commission may, whenever the workload of the commission requires, request that the secretary appoint pro tempore members. While serving as



members pro tempore persons have all the powers, duties, and immunities, and are entitled to the emoluments, including travel expenses, of the commission.

The commission shall prepare or determine the nature of the examinations for applicants to practice dentistry.

The attorney general shall advise the commission and represent it in all legal proceedings.

**NEW SECTION. Sec. 208.** A new section is added to chapter 18.32 RCW to read as follows:

Each member of the commission shall be compensated in accordance with RCW 43.03.240. Members shall be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060. Commission members shall be compensated and reimbursed for their activities in developing or administering a multistate licensing examination, as provided in this chapter.

**NEW SECTION. Sec. 209.** A new section is added to chapter 18.32 RCW to read as follows:

The commission may contract with competent persons on a temporary basis to assist in developing or administering examinations for licensure.

The commission may enter into compacts and agreements with other states and with organizations formed by several states, for the purpose of conducting multistate licensing examinations. The commission may enter into the compacts and agreements even though they would result in the examination of a candidate for a license in this state by an examiner or examiners from another state or states, and even though the compacts and agreements would result in the examination of a candidate or candidates for a license in another state or states by an examiner or examiners from this state.

**NEW SECTION. Sec. 210.** A new section is added to chapter 18.32 RCW to read as follows:

The commission may adopt rules in accordance with chapter 34.05 RCW to implement this chapter and chapter 18.130 RCW.

**Sec. 211.** RCW 18.32.040 and 1991 c 3 s 61 are each amended to read as follows:

The ~~((board))~~ commission shall require that every applicant for a license to practice dentistry shall:

(1) Present satisfactory evidence of graduation from a dental college, school, or dental department of an institution approved by the ~~((board))~~ commission;

(2) Submit, for the files of the ~~((board))~~ commission, a recent picture duly identified and attested; and

(3) Pass an examination prepared or approved by and administered under the direction of the ~~((board))~~ commission. The dentistry licensing examination shall consist of practical and written tests upon such subjects and of such scope as the ~~((board))~~ commission determines. The ~~((board))~~ commission may accept, in lieu of all or part of a written examination, a certificate granted by a national or

regional testing organization approved by the ~~((board))~~ commission. The ~~((board))~~ commission shall set the standards for passing the examination. The secretary shall keep on file the examination papers and records of examination for at least one year. This file shall be open for inspection by the applicant or the applicant's agent unless the disclosure will compromise the examination process as determined by the ~~((board))~~ commission or is exempted from disclosure under RCW 42.17.250 through 42.17.340.

**Sec. 212.** RCW 18.32.050 and 1984 c 287 s 30 are each amended to read as follows:

~~((The members of the board shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses incurred in attending the meetings of the board in accordance with RCW 43.03.050 and 43.03.060. Board))~~ Commission members shall be compensated and reimbursed pursuant to this section for their activities in administering a multi-state licensing examination pursuant to the ~~((board's))~~ commission's compact or agreement with another state or states or with organizations formed by several states (~~((: PROVIDED, That any))~~). Compensation or reimbursement received by a ~~((board))~~ commission member from another state, or organization formed by several states, for such member's services in administering a multi-state licensing examination, shall be deposited in the state general fund.

**Sec. 213.** RCW 18.32.100 and 1991 c 3 s 62 are each amended to read as follows:

The applicant for a dentistry license shall file an application on a form furnished by the secretary, stating the applicant's name, age, place of residence, the name of the school or schools attended by the applicant, the period of such attendance, the date of the applicant's graduation, whether the applicant has ever been the subject of any disciplinary action related to the practice of dentistry, and shall include a statement of all of the applicant's dental activities. This shall include any other information deemed necessary by the ~~((board))~~ commission.

The application shall be signed by the applicant and sworn to by the applicant before some person authorized to administer oaths, and shall be accompanied by proof of the applicant's school attendance and graduation.

**Sec. 214.** RCW 18.32.120 and 1991 c 3 s 64 are each amended to read as follows:

When the application and the accompanying proof are found satisfactory, the secretary shall notify the applicant to appear before the ~~((board))~~ commission at a time and place to be fixed by the ~~((board))~~ commission.

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

Any applicant who fails to make the required grade by his or her fourth examination may be reexamined only under rules adopted by the ~~((board))~~ commission.

Applicants for examination or reexamination shall pay a fee as determined by the secretary as provided in RCW 43.70.250.

**Sec. 215.** RCW 18.32.160 and 1991 c 3 s 65 are each amended to read as follows:

All licenses issued by the secretary on behalf of the ~~((board))~~ commission shall be signed by the secretary or chairperson and secretary of the ~~((board))~~ commission.

**Sec. 216.** RCW 18.32.180 and 1991 c 3 s 67 are each amended to read as follows:

(1) Every person licensed to practice dentistry in this state shall register with the secretary, and pay a renewal registration fee determined by the secretary as provided in RCW 43.70.250. Any failure to register and pay the renewal registration fee renders the license invalid, and the practice of dentistry shall not be permitted. The license shall be reinstated upon written application to the secretary and payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250, together with all delinquent license renewal fees.

(2) A person who fails to renew the license for a period of three years may not renew the license under subsection (1) of this section. In order to obtain a license to practice dentistry in this state, such a person shall file an original application as provided for in this chapter, along with the requisite fees. The ~~((board))~~ commission, in its sole discretion, may permit the applicant to be licensed without examination, and with or without conditions, if it is satisfied that the applicant meets all the requirements for licensure in this state and is competent to engage in the practice of dentistry.

**Sec. 217.** RCW 18.32.190 and 1991 c 3 s 68 are each amended to read as follows:

Every person who engages in the practice of dentistry in this state shall cause his or her license to be, at all times, displayed in a conspicuous place, in his or her office wherein he or she shall practice such profession, and shall further, whenever requested, exhibit such license to any of the members of ~~((said board))~~ the commission, or its authorized agent, and to the secretary or his or her authorized agent. Every licensee shall notify the secretary of the address or addresses, and of every change thereof, where the licensee shall engage in the practice of dentistry.

**Sec. 218.** RCW 18.32.195 and 1992 c 59 s 1 are each amended to read as follows:

The ~~((board))~~ commission may, without examination, issue a license to persons who possess the qualifications set forth in this section.

(1) The ~~((board))~~ commission may, upon written request of the dean of the school of dentistry of the University of Washington, issue a license to practice

dentistry in this state to persons who have been licensed or otherwise authorized to practice dentistry in another state or country and who have been accepted for employment by the school of dentistry as full-time faculty members. For purposes of this subsection, this means teaching members of the faculty of the school of dentistry of the University of Washington who are so employed on a one hundred percent of work time basis. Such license shall permit the holder thereof to practice dentistry within the confines of the university facilities for a period of one year while he or she is so employed as a full-time faculty member by the school of dentistry of the University of Washington. It shall terminate whenever the holder ceases to be such a full-time faculty member. Such license shall permit the holder thereof to practice dentistry only in connection with his or her duties in employment with the school of dentistry of the University of Washington. This limitation shall be stated on the license.

(2) The ~~((board))~~ commission may, upon written request of the dean of the school of dentistry of the University of Washington, issue a limited license to practice dentistry in this state to university residents in postgraduate dental education. The license shall permit the resident dentist to provide dental care only in connection with his or her duties as a university resident.

(3) The ~~((board))~~ commission may condition the granting of a license under this section with terms the ~~((board))~~ commission deems appropriate. All persons licensed under this section shall be subject to the jurisdiction of the ~~((dental disciplinary board))~~ commission to the same extent as other members of the dental profession, in accordance with this chapter, and in addition the licensee may be disciplined by the ~~((dental disciplinary board))~~ commission after a hearing has been held in accordance with the provisions set forth in this chapter, and determination by the ~~((dental disciplinary board))~~ commission that such licensee has violated any of the restrictions set forth in this section.

(4) Persons applying for licensure pursuant to this section shall pay the application fee determined by the secretary and, in the event the license applied for is issued, a license fee at the rate provided for licenses generally. After review by the ~~((board of dental examiners))~~ commission, licenses issued under this section may be renewed annually if the licensee continues to be employed as a full-time faculty member of the school of dentistry of the University of Washington, or a university resident in postgraduate dental education, and otherwise meets the requirements of the provisions and conditions deemed appropriate by the ~~((board of dental examiners))~~ commission. Any person who obtains a license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, in which case the applicant shall be subject to examination and the other requirements of this chapter.

**Sec. 219.** RCW 18.32.215 and 1989 c 202 s 30 are each amended to read as follows:

An applicant holding a valid license and currently engaged in practice in another state may be granted a license without examination required by this chapter, on the payment of any required fees, if the ~~((board))~~ commission

determines that the other state's licensing standards are substantively equivalent to the standards in this state(~~(-PROVIDED, That)~~). The ~~((board))~~ commission may also require the applicant to: (1) File with the ~~((board))~~ commission documentation certifying the applicant is licensed to practice in another state; and (2) provide information as the ~~((board))~~ commission deems necessary pertaining to the conditions and criteria of the Uniform Disciplinary Act, chapter 18.130 RCW, and to demonstrate to the ~~((board))~~ commission a knowledge of Washington law pertaining to the practice of dentistry.

**Sec. 220.** RCW 18.32.534 and 1991 c 3 s 72 are each amended to read as follows:

(1) To implement an impaired dentist program as authorized by RCW 18.130.175, the ~~((dental-disciplinary-board))~~ commission shall enter into a contract with a voluntary substance abuse monitoring program. The impaired dentist program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired dentists to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired dentists including those ordered by the ~~((board))~~ commission;
- (f) Providing education, prevention of impairment, posttreatment monitoring, and support of rehabilitated impaired dentists; and
- (g) Performing other related activities as determined by the ~~((board))~~ commission.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to fifteen dollars on each license issuance or renewal to be collected by the department of health from every dentist licensed under chapter 18.32 RCW. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired dentist program.

**Sec. 221.** RCW 18.32.640 and 1988 c 217 s 1 are each amended to read as follows:

(1) The ~~((board))~~ commission may adopt~~((-amend, and rescind))~~ such rules as it deems necessary to carry out this chapter.

(2) The ~~((board))~~ commission may adopt rules governing administration of sedation and general anesthesia by persons licensed under this chapter, including necessary training, education, equipment, and the issuance of any permits, certificates, or registration as required.

**Sec. 222.** RCW 18.32.655 and 1986 c 259 s 35 are each amended to read as follows:

The ~~((dental-disciplinary-board-has-the-power-and-it-shall-be-its-duty-to))~~ commission shall:

(1) Require licensed dentists to keep and maintain a copy of each laboratory referral instruction, describing detailed services rendered, for a period to be determined by the ~~((board))~~ commission but not more than three years, and ~~((to))~~ may require the production of all such records for examination by the ~~((board))~~ commission or its authorized representatives; and

(2) ~~((Promulgate))~~ Adopt reasonable rules ~~((and regulations))~~ requiring licensed dentists to make, maintain, and produce for examination by the ~~((board))~~ commission or its authorized representatives such other records as may be reasonable and proper in the performance of its duties and enforcing the provisions of this chapter.

**Sec. 223.** RCW 18.32.665 and 1986 c 259 s 36 are each amended to read as follows:

It shall be unlawful for any person, firm, or corporation to publish, directly or indirectly, or circulate any fraudulent, false, or misleading statements within the state of Washington as to the skill or method of practice of any person or operator; or in any way to advertise in print any matter with a view of deceiving the public, or in any way that will tend to deceive or defraud the public; or to claim superiority over neighboring dental practitioners; or to publish reports of cases or certificates of same in any public advertising media; or to advertise as using any anesthetic, drug, formula, medicine, which is either falsely advertised or misnamed; or to employ "capper" or "steerers" to obtain patronage; and any person committing any offense against any of the provisions of this section shall, upon conviction, be subjected to such penalties as are provided in this chapter: PROVIDED, That any person licensed under this chapter may announce credit, terms of credit or installment payments that may be made at periodical intervals to apply on account of any dental service rendered. The ~~((dental-disciplinary board))~~ commission may adopt such rules as are necessary to carry out the intent of this section.

**Sec. 224.** RCW 18.32.745 and 1991 c 3 s 73 are each amended to read as follows:

No manager, proprietor, partnership, or association owning, operating, or controlling any room, office, or dental parlors, where dental work is done, provided, or contracted for, shall employ or retain any unlicensed person or dentist as an operator; nor shall fail, within ten days after demand made by the secretary of health~~((;))~~ or the ~~((state board of dental examiners, or the dental disciplinary board))~~ commission in writing sent by certified mail, addressed to any such manager, proprietor, partnership, or association at ~~((said))~~ the room, office, or dental parlor, to furnish the secretary of health~~((;))~~ or the ~~((state board of dental examiners, or the dental disciplinary board))~~ commission with the names and addresses of all persons practicing or assisting in the practice of dentistry in his or her place of business or under his or her control, together with a sworn statement showing by what license or authority ~~((said))~~ the persons are practicing dentistry.

The sworn statement shall not be used as evidence in any subsequent court proceedings, except in a prosecution for perjury connected with its execution.

Any violation of the provisions of this section (~~((shall constitute))~~) is improper, unprofessional, and dishonorable conduct; it (~~((shall))~~) also (~~((constitute))~~) is grounds for injunction proceedings as provided by this chapter, and in addition (~~((shall constitute))~~) is a gross misdemeanor, except that the failure to furnish the information as may be requested in accordance with this section (~~((shall constitute))~~) is a misdemeanor.

**Sec. 225.** RCW 18.32.755 and 1986 c 259 s 37 are each amended to read as follows:

Any advertisement or announcement for dental services must include for each office location advertised the names of all persons practicing dentistry at that office location.

Any violation of the provisions of this section (~~((shall constitute))~~) is improper, unprofessional, and dishonorable conduct; it (~~((shall))~~) also (~~((constitute))~~) is grounds for injunction proceedings as provided by RCW 18.130.190(~~((2))~~)(4), and in addition (~~((shall constitute))~~) is a gross misdemeanor.

**NEW SECTION. Sec. 226.** A new section is added to chapter 18.32 RCW to read as follows:

The commission is the successor in interest of the board of dental examiners and the dental disciplinary board. All contracts, undertakings, agreements, rules, regulations, and policies continue in full force and effect on the effective date of this act, unless otherwise repealed or rejected by chapter . . . , Laws of 1994 (this act) or by the commission.

**NEW SECTION. Sec. 227.** The following acts or parts of acts are each repealed:

- (1) RCW 18.32.035 and 1989 c 202 s 14, 1984 c 279 s 50, 1979 c 38 s 1, 1975 c 49 s 1, 1953 c 93 s 2, 1941 c 92 s 1, & 1935 c 112 s 2;
- (2) RCW 18.32.037 and 1991 c 3 s 60, 1989 c 202 s 15, & 1935 c 112 s 3;
- (3) RCW 18.32.042 and 1989 c 202 s 28;
- (4) RCW 18.32.500 and 1989 c 202 s 24, 1986 c 259 s 39, & 1977 ex.s. c 5 s 37;
- (5) RCW 18.32.510 and 1977 ex.s. c 5 s 1;
- (6) RCW 18.32.520 and 1991 c 3 s 71, 1989 c 202 s 25, 1986 c 259 s 40, 1979 c 158 s 36, & 1977 ex.s. c 5 s 2;
- (7) RCW 18.32.560 and 1984 c 279 s 51 & 1977 ex.s. c 5 s 6;
- (8) RCW 18.32.570 and 1977 ex.s. c 5 s 7;
- (9) RCW 18.32.580 and 1977 ex.s. c 5 s 8;
- (10) RCW 18.32.590 and 1977 ex.s. c 5 s 9;
- (11) RCW 18.32.600 and 1984 c 287 s 31 & 1977 ex.s. c 5 s 10;
- (12) RCW 18.32.610 and 1977 ex.s. c 5 s 11; and
- (13) RCW 18.32.620 and 1984 c 279 s 62 & 1977 ex.s. c 5 s 12.

## MEDICAL

NEW SECTION. **Sec. 301.** A new section is added to chapter 18.71 RCW to read as follows:

It is the purpose of the medical quality assurance commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington.

**Sec. 302.** RCW 18.71.010 and 1991 c 3 s 158 are each amended to read as follows:

The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

(1) (~~"Board" means the board of medical examiners~~) "Commission" means the Washington state medical quality assurance commission.

(2) "Secretary" means the secretary of health.

(3) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18.71.055 and is serving a period of postgraduate clinical medical training sponsored by a college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term shall include individuals designated as intern or medical fellow.

(4) "Emergency medical care" or "emergency medical service" has the same meaning as in chapter 18.73 RCW.

**Sec. 303.** RCW 18.71.015 and 1991 c 44 s 1 and 1991 c 3 s 159 are each reenacted and amended to read as follows:

~~((There is hereby created a board of medical examiners consisting of six individuals licensed to practice medicine in the state of Washington, one individual who is licensed as a physician assistant under chapter 18.71A RCW, and two individuals who are not physicians, to be known as the Washington state board of medical examiners.))~~ The Washington state medical quality assurance commission is established, consisting of thirteen individuals licensed to practice medicine in the state of Washington under this chapter, two individuals who are licensed as physician assistants under chapter 18.71A RCW, and four individuals who are members of the public. Each congressional district now existing or hereafter created in the state must be represented by at least one physician member of the commission. The terms of office of members of the commission are not affected by changes in congressional district boundaries. Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.



The ~~((board))~~ members of the commission shall be appointed by the governor. ~~((On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the place of such member.))~~ Members of the initial commission may be appointed to staggered terms of one to four years, and thereafter all terms of appointment shall be for four years. The governor shall consider such physician and physician assistant members who are recommended for appointment by the appropriate professional associations in the state. In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the existing members of the board of medical examiners and medical disciplinary board repealed under section 336, chapter . . ., Laws of 1994 (this act) be appointed to the commission. No member may serve more than two consecutive full terms. Each member shall hold office until ((the expiration of the term for which such member is appointed or until)) a successor ((shall have been)) is appointed ((and shall have qualified)).

Each member of the ~~((board shall))~~ commission must be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The ~~((board))~~ commission shall meet as soon as practicable after appointment and elect ~~((a chair and, a vice chair from its members))~~ officers each year. Meetings shall be held at least four times a year and at such place as the ~~((board shall))~~ commission determines and at such other times and places as the ~~((board))~~ commission deems necessary. A majority of the ~~((board))~~ commission members appointed and serving ((shall)) constitutes a quorum for the transaction of ~~((board))~~ commission business.

~~((It shall require))~~ The affirmative vote of a majority of a quorum of the ((board)) commission is required to carry any motion or resolution, to adopt any rule, or to pass any measure. The commission may appoint panels consisting of at least three members. A quorum for the transaction of any business by a panel is a minimum of three members. A majority vote of ((the members appointed to a panel of the board shall constitute)) a quorum ((for)) of the panel is required to transact business delegated to it by the ((board)) commission.

Each member of the ~~((board))~~ commission shall be compensated in accordance with RCW 43.03.240 and in addition thereto shall be reimbursed for travel expenses incurred in carrying out the duties of the ~~((board))~~ commission in accordance with RCW 43.03.050 and 43.03.060. Any such expenses shall be paid from funds appropriated to the department of health.

~~((Any member of the board may be removed by the governor for))~~ Whenever the governor is satisfied that a member of a commission has been guilty of neglect of duty, misconduct, or malfeasance or misfeasance in office, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member.

Vacancies in the membership of the (~~board~~) commission shall be filled for the unexpired term by appointment by the governor.

The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary proceedings or other official acts performed in good faith as members of the commission.

Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tempore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission.

**Sec. 304.** RCW 18.71.017 and 1961 c 284 s 11 are each amended to read as follows:

The board may (~~make~~) adopt such rules (~~and regulations~~) as are not inconsistent with the laws of this state as may be determined necessary or proper to carry out the purposes of this chapter. The commission is the successor in interest of the board of medical examiners and the medical disciplinary board. All contracts, undertakings, agreements, rules, regulations, and policies continue in full force and effect on the effective date of this act, unless otherwise repealed or rejected by this chapter or by the commission.

**Sec. 305.** RCW 18.71.019 and 1987 c 150 s 45 are each amended to read as follows:

The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice and the issuance and denial of licenses and discipline of licensees under this chapter.

**Sec. 306.** RCW 18.71.030 and 1990 c 196 s 12 and 1990 c 33 s 552 are each reenacted and amended to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter 28A.210 RCW;

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, (~~podiatry~~) podiatric medicine and surgery, optometry, naturopathy, or any other healing art licensed under the methods or means permitted by such license;

(5) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration

while such medical officer is engaged in the performance of the duties prescribed for him or her by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the ~~((board))~~ commission, however, the performance of such services be only pursuant to a regular course of instruction or assignments from his or her instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state, however, the performance of such services shall be only pursuant to his or her duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician assistant program approved by the ~~((board))~~ commission, however, the performance of such services ~~((shall))~~ shall be only pursuant to a regular course of instruction in said program and such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a licensed physician assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the ~~((board of medical examiners))~~ commission, however, a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist, and the ~~((medical disciplinary board shall have))~~ commission has jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to ~~((the provisions of chapter 18.72 RCW))~~ this chapter and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained mobile intravenous therapy technician, by a physician's trained mobile airway management technician, or by a physician's trained mobile intensive care paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW ((18.88.295)) 18.—.— (section 429 of this act) and 28A.210.280.

**Sec. 307.** RCW 18.71.050 and 1991 c 3 s 161 are each amended to read as follows:

(1) Each applicant who has graduated from a school of medicine located in any state, territory, or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the ((board)) commission on a form prepared by the secretary with the approval of the ((board)) commission. Each applicant shall furnish proof satisfactory to the ((board)) commission of the following:

(a) That the applicant has attended and graduated from a school of medicine approved by the ((board)) commission;

(b) That the applicant has completed two years of postgraduate medical training in a program acceptable to the ((board)) commission, provided that applicants graduating before July 28, 1985, may complete only one year of postgraduate medical training;

(c) That the applicant is of good moral character; and

(d) That the applicant is physically and mentally capable of safely carrying on the practice of medicine. The ((board)) commission may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine.

(2) Nothing in this section shall be construed as prohibiting the ((board)) commission from requiring such additional information from applicants as it deems necessary. The issuance and denial of licenses are subject to chapter 18.130 RCW, the Uniform Disciplinary Act.

**Sec. 308.** RCW 18.71.051 and 1991 c 3 s 162 are each amended to read as follows:

Applicants for licensure to practice medicine who have graduated from a school of medicine located outside of the states, territories, and possessions of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the ((board)) commission on a form prepared by the secretary with the approval of the ((board)) commission. Each applicant shall furnish proof satisfactory to the ((board)) commission of the following:

(1) That he or she has completed in a school of medicine a resident course of professional instruction equivalent to that required in this chapter for applicants generally;

(2) That he or she meets all the requirements which must be met by graduates of the United States and Canadian school of medicine except that he or she need not have graduated from a school of medicine approved by the ((board)) commission;

(3) That he or she has satisfactorily passed the examination given by the educational council for foreign medical graduates or has met the requirements in lieu thereof as set forth in rules ~~((and regulations))~~ adopted by the ~~((board))~~ commission;

(4) That he or she has the ability to read, write, speak, understand, and be understood in the English language.

**Sec. 309.** RCW 18.71.055 and 1975 1st ex.s. c 171 s 8 are each amended to read as follows:

The ~~((board))~~ commission may approve any school of medicine which is located in any state, territory, or possession of the United States, the District of Columbia, or in the Dominion of Canada, provided that it:

(1) Requires collegiate instruction which includes courses deemed by the ~~((board))~~ commission to be prerequisites to medical education;

(2) Provides adequate instruction in the following subjects: Anatomy, biochemistry, microbiology and immunology, pathology, pharmacology, physiology, anaesthesiology, dermatology, gynecology, internal medicine, neurology, obstetrics, ~~((ophthalmology))~~ ophthalmology, orthopedic surgery, otolaryngology, pediatrics, physical medicine and rehabilitation, preventive medicine and public health, psychiatry, radiology, surgery, and urology, and such other subjects determined by the ~~((board))~~ commission;

(3) Provides clinical instruction in hospital wards and out-patient clinics under guidance.

Approval may be withdrawn by the ~~((board))~~ commission at any time a medical school ceases to comply with one or more of the requirements of this section.

(4) Nothing in this section shall be construed to authorize the ~~((board))~~ commission to approve a school of osteopathy, osteopathy and surgery, or osteopathic medicine, for purposes of qualifying an applicant to be licensed under this chapter by direct licensure, reciprocity, or otherwise.

**Sec. 310.** RCW 18.71.060 and 1975 1st ex.s. c 171 s 9 are each amended to read as follows:

~~((Said board))~~ The commission shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for licensure under this chapter, with the result of each application. ~~((Said))~~ The record shall be evidence of all the proceedings of ~~((said board which))~~ the commission that are set forth ((therein)) in it.

**Sec. 311.** RCW 18.71.070 and 1985 c 322 s 3 are each amended to read as follows:

With the exception of those applicants granted licensure through the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure must successfully complete an examination administered by the ~~((board))~~ commission to determine their professional qualifications. The ~~((board))~~ commission shall prepare and give, or approve the preparation and giving of, an examination which

shall cover those general subjects and topics, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine conferred by approved colleges or schools of medicine in the United States. Notwithstanding any other provision of law, the ~~((board shall have))~~ commission has the sole responsibility for determining the proficiency of applicants under this chapter, and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The ~~((board))~~ commission may by rule establish the passing grade for the examination.

Examination results shall be part of the records of the ~~((board))~~ commission and shall be permanently kept with the applicant's file.

**Sec. 312.** RCW 18.71.080 and 1991 c 195 s 1 and 1991 c 3 s 163 are each reenacted and amended to read as follows:

Every person licensed to practice medicine in this state shall register with the secretary of health annually, and pay an annual renewal registration fee determined by the secretary as provided in RCW 43.70.250. The ~~((board))~~ commission may establish rules governing mandatory continuing education requirements which shall be met by physicians applying for renewal of licenses. The rules ~~((and regulations))~~ shall provide that mandatory continuing education requirements may be met in part by physicians showing evidence of the completion of approved activities relating to professional liability risk management. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the secretary, and payment to the state of a penalty fee determined by the secretary as provided in RCW 43.70.250, together with all delinquent annual license renewal fees: PROVIDED, HOWEVER, That any person who fails to renew the license for a period of three years, shall in no event be entitled to renew the license under this section. Such a person in order to obtain a license to practice medicine in this state, shall file an original application as provided for in this chapter, along with the requisite fee therefor. The ~~((board))~~ commission, in its sole discretion, may permit such applicant to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine.

**Sec. 313.** RCW 18.71.085 and 1991 c 44 s 2 are each amended to read as follows:

The ~~((board))~~ commission may adopt rules pursuant to this section authorizing an inactive license status.

(1) An individual licensed pursuant to chapter 18.71 RCW may place his or her license on inactive status. The holder of an inactive license shall not practice medicine and surgery in this state without first activating the license.

(2) The inactive renewal fee shall be established by the secretary pursuant to RCW 43.70.250. Failure to renew an inactive license shall result in cancellation in the same manner as an active license.

(3) An inactive license may be placed in an active status upon compliance with rules established by the ~~((board))~~ commission.

(4) Provisions relating to disciplinary action against a person with a license shall be applicable to a person with an inactive license, except that when disciplinary proceedings against a person with an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

**Sec. 314.** RCW 18.71.090 and 1985 c 322 s 5 are each amended to read as follows:

Any applicant who meets the requirements of RCW 18.71.050 and has been licensed under the laws of another state, territory, or possession of the United States, or of any province of Canada, or an applicant who has satisfactorily passed examinations given by the national board of medical examiners may, in the discretion of the ~~((board))~~ commission, be granted a license without examination on the payment of the fees required by this chapter: PROVIDED, That the applicant must file with the ~~((board))~~ commission a copy of the license certified by the proper authorities of the issuing state to be a full, true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state.

**Sec. 315.** RCW 18.71.095 and 1991 c 3 s 164 are each amended to read as follows:

The ~~((board))~~ commission may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The ~~((board))~~ commission may, upon the written request of the secretary of the department of social and health services or the secretary of corrections, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department of social and health services or the department of corrections as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services or the department of corrections.

(2) The ~~((board))~~ commission may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any

province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of two years of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the ~~((board))~~ commission, the ~~((board))~~ commission may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his or her duties as a resident physician and shall not authorize the physician to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

(4)(a) Upon nomination by the dean of the school of medicine at the University of Washington or the chief executive officer of a hospital or other appropriate health care facility licensed in the state of Washington, the ~~((board))~~ commission may issue a limited license to a physician applicant invited to serve as a teaching-research member of the institution's instructional staff if the sponsoring institution and the applicant give evidence that he or she has graduated from a recognized medical school and has been licensed or otherwise privileged to practice medicine at his or her location of origin. Such license shall permit the recipient to practice medicine only within the confines of the instructional program specified in the application and shall terminate whenever the holder ceases to be involved in that program, or at the end of one year, whichever is earlier. Upon request of the applicant and the institutional authority, the license may be renewed for no more than a total of two years.

(b) Upon nomination by the dean of the school of medicine of the University of Washington or the chief executive officer of any hospital or appropriate health care facility licensed in the state of Washington, the ~~((board))~~ commission may issue a limited license to an applicant selected by the sponsoring institution to be enrolled in one of its designated departmental or divisional fellowship programs provided that the applicant shall have graduated from a recognized medical school and has been granted a license or other appropriate certificate to practice medicine in the location of the applicant's origin. Such license shall permit the holder only to practice medicine within the confines of the fellowship program to which he or she has been appointed and, upon the request of the applicant and the sponsoring institution, the license may be renewed by the ~~((board))~~ commission for no more than a total of two years.



All persons licensed under this section shall be subject to the jurisdiction of the (~~(medical disciplinary board)~~) commission to the same extent as other members of the medical profession, in accordance with this chapter and chapter(~~(s-18.72 and)~~) 18.130 RCW.

Persons applying for licensure pursuant to this section shall pay an application fee determined by the secretary as provided in RCW 43.70.250 and, in the event the license applied for is issued, a license fee at the rate provided for renewals of licenses generally. Licenses issued hereunder may be renewed annually pursuant to the provisions of RCW 18.71.080. Any person who obtains a limited license pursuant to this section may, without an additional application fee, apply for licensure under this chapter, but shall submit a new application form and comply with all other licensing requirements of this chapter.

**Sec. 316.** RCW 18.71.205 and 1992 c 128 s 1 are each amended to read as follows:

(1) The secretary of the department of health, in conjunction with the advice and assistance of the emergency medical services licensing and certification advisory committee as prescribed in RCW 18.73.050, and the (~~(board of medical examiners)~~) commission, shall prescribe:

(a) Minimum standards and performance requirements for the certification and recertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics; and

(b) Procedures for certification, recertification, and decertification of physician's trained intravenous therapy technicians, airway management technicians, and mobile intensive care paramedics.

(2) Initial certification shall be for a period of three years.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period of three years.

(4) As used in chapters 18.71 and 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to chapter 18.71 RCW or osteopathy and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The Uniform Disciplinary Act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

**Sec. 317.** RCW 18.71.230 and 1986 c 259 s 112 are each amended to read as follows:

A right to practice medicine and surgery by an individual in this state pursuant to RCW 18.71.030 (5) through (12) shall be subject to discipline by order of the ~~((board))~~ commission upon a finding by the ~~((board))~~ commission of an act of unprofessional conduct as defined in RCW 18.130.180 or that the individual is unable to practice with reasonable skill or safety due to a mental or physical condition as described in RCW 18.130.170. Such physician shall have the same rights of notice, hearing, and judicial review as provided licensed physicians generally ~~((pursuant to chapters 18.72 and))~~ under this chapter and chapter 18.130 RCW.

**Sec. 318.** RCW 18.71A.010 and 1990 c 196 s 1 are each amended to read as follows:

The definitions set forth in this section apply throughout this chapter.

(1) "Physician assistant" means a person who is licensed by the ~~((board))~~ commission to practice medicine to a limited extent only under the supervision of a physician as defined in chapter 18.71 RCW and who is academically and clinically prepared to provide health care services and perform diagnostic, therapeutic, preventative, and health maintenance services.

(2) "~~((Board))~~ Commission" means the ~~((board of medical examiners))~~ medical quality assurance commission.

(3) "Practice medicine" ~~((shall have))~~ has the meaning defined in RCW 18.71.011.

(4) "Secretary" means the secretary of health or the secretary's designee.

(5) "Department" means the department of health.

**Sec. 319.** RCW 18.71A.020 and 1993 c 28 s 5 are each amended to read as follows:

(1) The ~~((board))~~ commission shall adopt rules fixing the qualifications and the educational and training requirements for licensure as a physician assistant or for those enrolled in any physician assistant training program. The requirements shall include completion of an accredited physician assistant training program approved by the ~~((board))~~ commission and eligibility to take an examination approved by the ~~((board, provided such))~~ commission, if the examination tests subjects substantially equivalent to the curriculum of an accredited physician assistant training program. Physician assistants licensed by the board of medical examiners as of June 7, 1990, shall continue to be licensed.

(2)(a) The ~~((board))~~ commission shall adopt rules governing the extent to which:

(i) Physician assistant students may practice medicine during training; and  
 (ii) Physician assistants may practice after successful completion of a physician assistant training course.

(b) Such rules shall provide:

(i) That the practice of a physician assistant shall be limited to the performance of those services for which he or she is trained; and

(ii) That each physician assistant shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician or physicians at the place where services are rendered.

(3) Applicants for licensure shall file an application with the ~~((board))~~ commission on a form prepared by the secretary with the approval of the ~~((board))~~ commission, detailing the education, training, and experience of the physician assistant and such other information as the ~~((board))~~ commission may require. The application shall be accompanied by a fee determined by the secretary as provided in RCW 43.70.250. Each applicant shall furnish proof satisfactory to the ~~((board))~~ commission of the following:

(a) That the applicant has completed an accredited physician assistant program approved by the ~~((board))~~ commission and is eligible to take the examination approved by the ~~((board))~~ commission;

(b) That the applicant is of good moral character; and

(c) That the applicant is physically and mentally capable of practicing medicine as a physician assistant with reasonable skill and safety. The ~~((board))~~ commission may require an applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical or mental capability, or both, to safely practice as a physician assistant.

(4) The ~~((board))~~ commission may approve, deny, or take other disciplinary action upon the application for license as provided in the Uniform Disciplinary Act, chapter 18.130 RCW. The license shall be renewed on a periodic basis as determined by the secretary under RCW 43.70.280, upon payment of a fee determined by the secretary as provided in RCW 43.70.250, and submission of a completed renewal application, in addition to any late renewal penalty fees as determined by the secretary as provided in RCW 43.70.250. The ~~((board))~~ commission may authorize the use of alternative supervisors who are licensed either under chapter 18.57 or 18.71 RCW.

**Sec. 320.** RCW 18.71A.030 and 1993 c 28 s 6 are each amended to read as follows:

A physician assistant ~~((as defined in this chapter))~~ may practice medicine in this state only with the approval of the practice arrangement plan by the ~~((board))~~ commission and only to the extent permitted by the ~~((board))~~ commission. A physician assistant who has received a license but who has not received ~~((board))~~ commission approval of the practice arrangement plan under RCW 18.71A.040 may not practice. A physician assistant shall be subject to discipline under chapter 18.130 RCW.

**Sec. 321.** RCW 18.71A.040 and 1993 c 28 s 7 are each amended to read as follows:

(1) No physician assistant practicing in this state shall be employed or supervised by a physician or physician group without the approval of the ~~((board))~~ commission.

(2) Prior to commencing practice, a physician assistant licensed in this state shall apply to the ~~((board))~~ commission for permission to be employed or supervised by a physician or physician group. The practice arrangement plan shall be jointly submitted by the physician or physician group and physician assistant. The secretary may charge a fee as provided in RCW 43.70.250 to recover the cost for the plan review. The practice arrangement plan shall delineate the manner and extent to which the physician assistant would practice and be supervised. Whenever a physician assistant is practicing in a manner inconsistent with the approved practice arrangement plan, the medical disciplinary board may take disciplinary action under chapter 18.130 RCW.

**Sec. 322.** RCW 18.71A.045 and 1988 c 113 s 2 are each amended to read as follows:

Foreign medical school graduates shall not be eligible for ~~((registration))~~ licensing as physician assistants after July 1, 1989. ~~((Those applying on or before that date shall remain eligible to register as a physician assistant after July 1, 1989; PROVIDED, That the graduate does not violate chapter 18.130 RCW or the rules of the board. The board shall adopt rules regarding applications for registration. The rules shall include board approval of training as required in RCW 18.71.051(1) and receipt of original translated transcripts directly from the medical school.))~~

**Sec. 323.** RCW 18.71A.050 and 1993 c 28 s 8 are each amended to read as follows:

No physician who supervises a licensed physician assistant in accordance with and within the terms of any permission granted by the ~~((medical examining board shall be))~~ commission is considered as aiding and abetting an unlicensed person to practice medicine. The supervising physician and physician assistant shall retain professional and personal responsibility for any act which constitutes the practice of medicine as defined in RCW 18.71.011 when performed by the physician assistant.

**Sec. 324.** RCW 18.71A.060 and 1990 c 196 s 6 are each amended to read as follows:

No health care services may be performed under this chapter in any of the following areas:

(1) The measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses or frames for the aid thereof.

(2) The prescribing or directing the use of, or using, any optical device in connection with ocular exercises, visual training, vision training<sub>2</sub> or orthoptics.

(3) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(4) Nothing in this section shall preclude the performance of routine visual screening.

(5) The practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW respectively. The exemptions set forth in RCW 18.32.030(~~paragraphs~~) (1) and (8), shall not apply to a physician assistant.

(6) The practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulations of the spine.

(7) The practice of (~~podiatry~~) podiatric medicine and surgery as defined in chapter 18.22 RCW.

**Sec. 325.** RCW 18.71A.085 and 1990 c 196 s 10 are each amended to read as follows:

Any physician assistant acupuncturist currently licensed by the (~~board~~) commission may continue to perform acupuncture under the physician assistant license as long as he or she maintains licensure as a physician assistant.

**Sec. 326.** RCW 18.72.155 and 1991 c 3 s 168 are each amended to read as follows:

The secretary of the department of health shall appoint, from a list of three names supplied by the (~~board~~) commission, an executive (~~secretary~~) director who shall act to carry out the provisions of this chapter. The secretary shall also employ such additional staff including administrative assistants, investigators, and clerical staff as are required to enable the (~~board~~) commission to accomplish its duties and responsibilities. The executive (~~secretary shall be~~) director is exempt from the provisions of the civil service law, chapter 41.06 RCW, as now or hereafter amended.

**Sec. 327.** RCW 18.72.165 and 1986 c 300 s 5 are each amended to read as follows:

(1) A licensed health care professional licensed under this chapter (~~(18.71 RCW)~~) shall report to the (~~medical disciplinary board~~) commission when he or she has personal knowledge that a practicing physician has either committed an act or acts which may constitute statutorily defined unprofessional conduct or that a practicing physician may be unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any mental or physical conditions.

(2) Reporting under this section is not required by:

(a) An appropriately appointed peer review committee member of a licensed hospital or by an appropriately designated professional review committee member of a county or state medical society during the investigative phase of their respective operations if these investigations are completed in a timely manner; or

(b) A treating licensed health care professional of a physician currently involved in a treatment program as long as the physician patient actively participates in the treatment program and the physician patient's impairment does not constitute a clear and present danger to the public health, safety, or welfare.

(3) The ~~((medical disciplinary board))~~ commission may impose disciplinary sanctions, including license suspension or revocation, on any health care professional subject to the jurisdiction of the ~~((board))~~ commission who has failed to comply with this section.

**Sec. 328.** RCW 18.72.265 and 1986 c 259 s 117 are each amended to read as follows:

(1) The contents of any report file under RCW 18.130.070 shall be confidential and exempt from public disclosure pursuant to chapter 42.17 RCW, except that it may be reviewed (a) by the licensee involved or his or her counsel or authorized representative who may submit any additional exculpatory or explanatory statements or other information, which statements or other information shall be included in the file, or (b) by a representative of the ~~((medical disciplinary board))~~ commission, or investigator thereof, who has been assigned to review the activities of a licensed physician.

Upon a determination that a report is without merit, the ~~((board's))~~ commission's records may be purged of information relating to the report.

(2) Every individual, medical association, medical society, hospital, medical service bureau, health insurance carrier or agent, professional liability insurance carrier, professional standards review organization, and agency of the federal, state, or local government shall be immune from civil liability, whether direct or derivative, for providing information to the ~~((board subsequent to))~~ commission under RCW 18.130.070, or for which an individual health care provider has immunity under the provisions of RCW 4.24.240, 4.24.250, or 4.24.260~~((as now or hereafter amended))~~.

**Sec. 329.** RCW 18.72.301 and 1989 c 119 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 18.72.306 through 18.72.321 (as recodified by this act).

(1) ~~(("Board" means the medical disciplinary board of this state.~~

~~((2)))~~ (2) "Committee" means a nonprofit corporation formed by physicians who have expertise in the areas of alcoholism, drug abuse, or mental illness and who broadly represent the physicians of the state and that has been designated to perform any or all of the activities set forth in RCW 18.72.306(1) (as recodified by this act) pursuant to rules adopted by the ~~((board))~~ commission under chapter 34.05 RCW.

~~((3)))~~ (2) "Impaired" or "impairment" means the presence of the diseases of alcoholism, drug abuse, mental illness, or other debilitating conditions.

~~((4)))~~ (3) "Impaired physician program" means the program for the prevention, detection, intervention, and monitoring of impaired physicians

established by the ~~((board))~~ commission pursuant to RCW 18.72.306(1) (as recodified by this act).

~~((5))~~ (4) "Physician" means a person licensed under this chapter ~~((18.71 RCW))~~.

~~((6))~~ (5) "Treatment program" means a plan of care and rehabilitation services provided by those organizations or persons authorized to provide such services to be approved by the ~~((board))~~ commission for impaired physicians taking part in the impaired physician program created by RCW 18.72.306 (as recodified by this act).

**Sec. 330.** RCW 18.72.306 and 1991 c 3 s 169 are each amended to read as follows:

(1) The ~~((board))~~ commission shall enter into a contract with the committee to implement an impaired physician program. The impaired physician program may include any or all of the following:

- (a) Contracting with providers of treatment programs;
- (b) Receiving and evaluating reports of suspected impairment from any source;
- (c) Intervening in cases of verified impairment;
- (d) Referring impaired physicians to treatment programs;
- (e) Monitoring the treatment and rehabilitation of impaired physicians including those ordered by the ~~((board))~~ commission;
- (f) Providing post-treatment monitoring and support of rehabilitative impaired physicians;
- (g) Performing such other activities as agreed upon by the ~~((board))~~ commission and the committee; and
- (h) Providing prevention and education services.

(2) A contract entered into under subsection (1) of this section shall be financed by a surcharge of up to twenty-five dollars on each license renewal or issuance of a new license to be collected by the department of health from every physician and surgeon licensed under this chapter ~~((18.71 RCW))~~ in addition to other license fees and the medical discipline assessment fee established under RCW 18.72.380. These moneys shall be placed in the health professions account to be used solely for the implementation of the impaired physician program.

**Sec. 331.** RCW 18.72.311 and 1987 c 416 s 3 are each amended to read as follows:

The committee shall develop procedures in consultation with the ~~((board))~~ commission for:

- (1) Periodic reporting of statistical information regarding impaired physician activity;
- (2) Periodic disclosure and joint review of such information as the ~~((board))~~ commission may deem appropriate regarding reports received, contacts or investigations made, and the disposition of each report: PROVIDED, That the

committee shall not disclose any personally identifiable information except as provided in subsections (3) and (4) of this section;

(3) Immediate reporting to the ((~~board~~)) commission of the name and results of any contact or investigation regarding any impaired physician who is believed to constitute an imminent danger to the public;

(4) Reporting to the ((~~board~~)) commission, in a timely fashion, any impaired physician who refuses to cooperate with the committee, refuses to submit to treatment, or whose impairment is not substantially alleviated through treatment, and who, in the opinion of the committee, is unable to practice medicine with reasonable skill and safety. However, impairment, in and of itself, shall not give rise to a presumption of the inability to practice medicine with reasonable skill and safety;

(5) Informing each participant of the impaired physician program of the program procedures, the responsibilities of program participants, and the possible consequences of noncompliance with the program.

**Sec. 332.** RCW 18.72.316 and 1987 c 416 s 4 are each amended to read as follows:

If the ((~~board~~)) commission has reasonable cause to believe that a physician is impaired, the ((~~board~~)) commission shall cause an evaluation of such physician to be conducted by the committee or the committee's designee or the ((~~board's~~)) commission's designee for the purpose of determining if there is an impairment. The committee or appropriate designee shall report the findings of its evaluation to the ((~~board~~)) commission.

**Sec. 333.** RCW 18.72.340 and 1993 c 367 s 17 are each amended to read as follows:

(1) Every institution or organization providing professional liability insurance to physicians shall send a complete report to the ((~~medical disciplinary board~~)) commission of all malpractice settlements, awards, or payments in excess of twenty thousand dollars as a result of a claim or action for damages alleged to have been caused by an insured physician's incompetency or negligence in the practice of medicine. Such institution or organization shall also report the award, settlement, or payment of three or more claims during a five-year time period as the result of the alleged physician's incompetence or negligence in the practice of medicine regardless of the dollar amount of the award or payment.

(2) Reports required by this section shall be made within sixty days of the date of the settlement or verdict. Failure to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

**Sec. 334.** RCW 18.72.345 and 1991 c 215 s 2 are each amended to read as follows:

To assist in identifying impairment related to alcohol abuse, the ((~~board~~)) commission may obtain a copy of the driving record of a physician or a physician assistant maintained by the department of licensing.



**NEW SECTION.** Sec. 335. (1) RCW 18.72.155, 18.72.165, 18.72.265, 18.72.301, 18.72.306, 18.72.311, 18.72.316, 18.72.340, and 18.72.345, as amended by this act, are each recodified as sections in chapter 18.71 RCW.

(2) RCW 18.72.010, 18.72.321, 18.72.380, 18.72.390, and 18.72.400 are each recodified as sections in chapter 18.71 RCW.

**NEW SECTION.** Sec. 336. The following acts or parts of acts are each repealed:

- (1) RCW 18.72.020 and 1986 c 259 s 115 & 1955 c 202 s 2;
- (2) RCW 18.72.045 and 1991 c 215 s 1;
- (3) RCW 18.72.090 and 1955 c 202 s 9;
- (4) RCW 18.72.100 and 1991 c 3 s 166, 1984 c 287 s 45, 1979 ex.s. c 111 s 3, 1979 c 158 s 59, 1975-'76 2nd ex.s. c 34 s 42, & 1955 c 202 s 10;
- (5) RCW 18.72.110 and 1955 c 202 s 11;
- (6) RCW 18.72.120 and 1991 c 3 s 167 & 1955 c 202 s 12;
- (7) RCW 18.72.130 and 1979 ex.s. c 111 s 4 & 1955 c 202 s 13;
- (8) RCW 18.72.150 and 1986 c 259 s 116, 1979 ex.s. c 111 s 5, 1975 c 61 s 4, & 1955 c 202 s 15;
- (9) RCW 18.72.154 and 1986 c 259 s 107;
- (10) RCW 18.72.190 and 1989 c 373 s 18 & 1955 c 202 s 19;
- (11) RCW 18.72.900 and 1955 c 202 s 46; and
- (12) RCW 18.72.910 and 1955 c 202 s 48.

### **NURSING CARE**

**NEW SECTION.** Sec. 401. It is the purpose of the nursing care quality assurance commission to regulate the competency and quality of professional health care providers under its jurisdiction by establishing, monitoring, and enforcing qualifications for licensing, consistent standards of practice, continuing competency mechanisms, and discipline. Rules, policies, and procedures developed by the commission must promote the delivery of quality health care to the residents of the state of Washington.

**NEW SECTION.** Sec. 402. Unless a different meaning is plainly required by the context, the definitions set forth in this section apply throughout this chapter.

(1) "Commission" means the Washington state nursing care quality assurance commission.

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

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Diagnosis," in the context of nursing practice, means the identification of, and discrimination between, the person's physical and psycho-social signs and symptoms that are essential to effective execution and management of the nursing care regimen.

(5) "Diploma" means written official verification of completion of an approved nursing education program.

(6) "Nurse" or "nursing," unless otherwise specified as a practical nurse or practical nursing, means a registered nurse or registered nursing.

**NEW SECTION.** Sec. 403. (1) It is unlawful for a person to practice or to offer to practice as a registered nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a registered nurse in this state may use the title "registered nurse" and the abbreviation "R.N." No other person may assume that title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a registered nurse.

(2) It is unlawful for a person to practice or to offer to practice as an advanced registered nurse practitioner or as a nurse practitioner in this state unless that person has been licensed under this chapter. A person who holds a license to practice as an advanced registered nurse practitioner in this state may use the titles "advanced registered nurse practitioner" and "nurse practitioner" and the abbreviations "A.R.N.P." and "N.P." No other person may assume those titles or use those abbreviations or any other words, letters, signs, or figures to indicate that the person using them is an advanced registered nurse practitioner or nurse practitioner.

(3) It is unlawful for a person to practice or to offer to practice as a licensed practical nurse in this state unless that person has been licensed under this chapter. A person who holds a license to practice as a licensed practical nurse in this state may use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person may assume that title or use that abbreviation or any other words, letters, signs, or figures to indicate that the person using them is a licensed practical nurse.

**NEW SECTION.** Sec. 404. (1) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in either:

(a) The observation, assessment, diagnosis, care or counsel, and health teaching of the ill, injured, or infirm, or in the maintenance of health or prevention of illness of others;

(b) The performance of such additional acts requiring education and training and that are recognized by the medical and nursing professions as proper and recognized by the commission to be performed by registered nurses licensed under this chapter and that are authorized by the commission through its rules;

(c) The administration, supervision, delegation, and evaluation of nursing practice. However, nothing in this subsection affects the authority of a hospital, hospital district, medical clinic, or office, concerning its administration and supervision;

(d) The teaching of nursing;

(e) The executing of medical regimen as prescribed by a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and

surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner.

(2) Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

(3) This section does not prohibit (a) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a registered nurse, or (b) the practice of licensed practical nursing by a licensed practical nurse.

**NEW SECTION. Sec. 405.** "Advanced registered nursing practice" means the performance of the acts of a registered nurse and the performance of an expanded role in providing health care services as recognized by the medical and nursing professions, the scope of which is defined by rule by the commission. Upon approval by the commission, an advanced registered nurse practitioner may prescribe legend drugs and controlled substances contained in Schedule V of the Uniform Controlled Substances Act, chapter 69.50 RCW.

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit (1) the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be an advanced registered nurse practitioner, or (2) the practice of registered nursing by a licensed registered nurse or the practice of licensed practical nursing by a licensed practical nurse.

**NEW SECTION. Sec. 406.** "Licensed practical nursing practice" means the performance of services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, physician assistant, osteopathic physician assistant, podiatric physician and surgeon, advanced registered nurse practitioner, or registered nurse.

Nothing in this section prohibits a person from practicing a profession for which a license has been issued under the laws of this state or specifically authorized by any other law of the state of Washington.

This section does not prohibit the nursing care of the sick, without compensation, by an unlicensed person who does not hold himself or herself out to be a licensed practical nurse.

**NEW SECTION. Sec. 407.** (1) The state nursing care quality assurance commission is established, consisting of eleven members to be appointed by the governor to four-year terms. No person may serve as a member of the commission for more than two consecutive full terms.

(2) There must be three registered nurse members, two advanced registered nurse practitioner members, three licensed practical nurse members, two public

members, and one nonvoting midwife member licensed under chapter 18.50 RCW, on the commission. Each member of the commission must be a citizen of the United States and a resident of this state.

(3) Registered nurse members of the commission must:

(a) Be licensed as registered nurses under this chapter; and

(b) Have had at least five years' experience in the active practice of nursing and have been engaged in that practice within two years of appointment.

(4) Advanced registered nurse practitioner members of the commission must:

(a) Be licensed as advanced registered nurse practitioners under this chapter; and

(b) Have had at least five years' experience in the active practice of advanced registered nursing and have been engaged in that practice within two years of appointment.

(5) Licensed practical nurse members of the commission must:

(a) Be licensed as licensed practical nurses under this chapter; and

(b) Have had at least five years' actual experience as a licensed practical nurse and have been engaged in practice as a practical nurse within two years of appointment.

(6) Public members of the commission may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services regulated by the commission, or have a material or financial interest in the rendering of health services regulated by the commission.

(7) The nonvoting licensed midwife member of the commission must:

(a) Be licensed as a midwife under chapter 18.50 RCW; and

(b) Have had at least five years' actual experience as a licensed midwife and have been engaged in practice as a midwife within two years of appointment.

In appointing the initial members of the commission, it is the intent of the legislature that, to the extent possible, the governor appoint the existing members of the board of nursing and the board of practical nursing repealed under chapter . . . , Laws of 1994 (this act). The governor may appoint initial members of the commission to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the commission hold office until their successors are appointed.

**NEW SECTION. Sec. 408.** The governor may remove a member of the commission for neglect of duty, misconduct, malfeasance or misfeasance in office, or for incompetency or unprofessional conduct as defined in chapter 18.130 RCW. Whenever the governor is satisfied that a member of the commission has been guilty of neglect of duty, misconduct, malfeasance or misfeasance in office, or of incompetency or unprofessional conduct, the governor shall file with the secretary of state a statement of the causes for and the order of removal from office, and the secretary shall forthwith send a certified copy of the statement of causes and order of removal to the last known post office address of the member. If a vacancy occurs on the commission, the

governor shall appoint a replacement member to fill the remainder of the unexpired term.

**NEW SECTION. Sec. 409.** Each commission member shall be compensated in accordance with RCW 43.03.240 and shall be paid travel expenses when away from home in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 410.** The commission shall annually elect officers from among its members. The commission shall meet at least quarterly at times and places it designates. It shall hold such other meetings during the year as may be deemed necessary to transact its business. A majority of the commission members appointed and serving constitutes a quorum at a meeting. All meetings of the commission must be open and public, except that the commission may hold executive sessions to the extent permitted by chapter 42.30 RCW.

Carrying a motion or resolution, adopting a rule, or passing a measure requires the affirmative vote of a majority of a quorum of the commission. The commission may appoint panels consisting of at least three members. A quorum for transaction of any business by a panel is a minimum of three members. A majority vote of a quorum of the panel is required to transact business delegated to it by the commission.

**NEW SECTION. Sec. 411.** The commission shall keep a record of all of its proceedings and make such reports to the governor as may be required. The commission shall define by rules what constitutes specialized and advanced levels of nursing practice as recognized by the medical and nursing profession. The commission may adopt rules or issue advisory opinions in response to questions put to it by professional health associations, nursing practitioners, and consumers in this state concerning the authority of various categories of nursing practitioners to perform particular acts.

The commission shall approve curricula and shall establish criteria for minimum standards for schools preparing persons for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter. The commission shall approve such schools of nursing as meet the requirements of this chapter and the commission, and the commission shall approve establishment of basic nursing education programs and shall establish criteria as to the need for and the size of a program and the type of program and the geographical location. The commission shall establish criteria for proof of reasonable currency of knowledge and skill as a basis for safe practice after three years' inactive or lapsed status. The commission shall establish criteria for licensing by endorsement. The commission shall determine examination requirements for applicants for licensing as registered nurses, advanced registered nurse practitioners, and licensed practical nurses under this chapter, and shall certify to the secretary for licensing duly qualified applicants.

The commission shall adopt such rules under chapter 34.05 RCW as are necessary to fulfill the purposes of this chapter.

The commission is the successor in interest of the board of nursing and the board of practical nursing. All contracts, undertakings, agreements, rules, regulations, decisions, orders, and policies of the former board of nursing or the board of practical nursing continue in full force and effect under the commission until the commission amends or rescinds those rules, regulations, decisions, orders, or policies.

The members of the commission are immune from suit in an action, civil or criminal, based on its disciplinary proceedings or other official acts performed in good faith as members of the commission.

Whenever the workload of the commission requires, the commission may request that the secretary appoint pro tempore members of the commission. When serving, pro tempore members of the commission have all of the powers, duties, and immunities, and are entitled to all of the emoluments, including travel expenses, of regularly appointed members of the commission.

**NEW SECTION.** Sec. 412. The Uniform Disciplinary Act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

**NEW SECTION.** Sec. 413. The secretary shall appoint, after consultation with the commission, an executive director who shall act to carry out this chapter. The secretary shall also employ such professional, secretarial, clerical, and other assistants as may be necessary to effectively administer this chapter. The secretary shall fix the compensation and provide for travel expenses for the executive director and all such employees, in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION.** Sec. 414. The executive director must be a graduate of an approved nursing education program and of a college or university, with a masters' degree, and currently licensed as a registered nurse under this chapter; have a minimum of eight years' experience in nursing in any combination of administration and nursing education; and have been actively engaged in the practice of registered nursing or nursing education within two years immediately before the time of appointment.

**NEW SECTION.** Sec. 415. An institution desiring to conduct a school of registered nursing or a school or program of practical nursing, or both, shall apply to the commission and submit evidence satisfactory to the commission that:

(1) It is prepared to carry out the curriculum approved by the commission for basic registered nursing or practical nursing, or both; and

(2) It is prepared to meet other standards established by law and by the commission.

The commission shall make, or cause to be made, such surveys of the schools and programs, and of institutions and agencies to be used by the schools and programs, as it determines are necessary. If in the opinion of the commission, the requirements for an approved school of registered nursing or a school

or program of practical nursing, or both, are met, the commission shall approve the school or program.

**NEW SECTION. Sec. 416.** (1) An applicant for a license to practice as a registered nurse shall submit to the commission:

(a) An attested written application on a department form;

(b) Written official evidence of a diploma from an approved school of nursing; and

(c) Any other official records specified by the commission.

(2) An applicant for a license to practice as an advanced registered nurse practitioner shall submit to the commission:

(a) An attested written application on a department form;

(b) Written official evidence of completion of an advanced registered nurse practitioner training program meeting criteria established by the commission; and

(c) Any other official records specified by the commission.

(3) An applicant for a license to practice as a licensed practical nurse shall submit to the commission:

(a) An attested written application on a department form;

(b) Written official evidence that the applicant is over the age of eighteen;

(c) Written official evidence of a high school diploma or general education development certificate or diploma;

(d) Written official evidence of completion of an approved practical nursing program, or its equivalent; and

(e) Any other official records specified by the commission.

(4) At the time of submission of the application, the applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse must not be in violation of chapter 18.130 RCW or this chapter.

(5) The commission shall establish by rule the criteria for evaluating the education of all applicants.

**NEW SECTION. Sec. 417.** An applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse must pass an examination in subjects determined by the commission. The examination may be supplemented by an oral or practical examination. The commission shall establish by rule the requirements for applicants who have failed the examination to qualify for reexamination.

**NEW SECTION. Sec. 418.** When authorized by the commission, the department shall issue an interim permit authorizing the applicant to practice registered nursing, advanced registered nursing, or licensed practical nursing, as appropriate, from the time of verification of the completion of the school or training program until notification of the results of the examination. Upon the applicant passing the examination, and if all other requirements established by the commission for licensing are met, the department shall issue the applicant a license to practice registered nursing, advanced registered nursing, or licensed

practical nursing, as appropriate. If the applicant fails the examination, the interim permit expires upon notification to the applicant, and is not renewable. The holder of an interim permit is subject to chapter 18.130 RCW.

**NEW SECTION. Sec. 419.** Upon approval of the application by the commission, the department shall issue a license by endorsement without examination to practice as a registered nurse or as a licensed practical nurse to a person who is licensed as a registered nurse or licensed practical nurse under the laws of another state, territory, or possession of the United States, and who meets all other qualifications for licensing.

An applicant who has graduated from a school or program of nursing outside the United States and is licensed as a registered nurse or licensed practical nurse, or their equivalents, outside the United States must meet all qualifications required by this chapter and pass examinations as determined by the commission.

**NEW SECTION. Sec. 420.** An applicant for a license to practice as a registered nurse, advanced registered nurse practitioner, or licensed practical nurse shall pay a fee as determined by the secretary under RCW 43.70.250 to the state treasurer.

**NEW SECTION. Sec. 421.** A license issued under this chapter, whether in an active or inactive status, must be renewed, except as provided in this chapter. The licensee shall send the renewal form to the department with a renewal fee, as determined by the secretary under RCW 43.70.250, before the expiration date. Upon receipt of the renewal form and the appropriate fee, the department shall issue the licensee a license, which declares the holder to be a legal practitioner of registered nursing, advanced registered nursing practice, or licensed practical nursing, as appropriate, in either active or inactive status, for the period of time stated on the license.

**NEW SECTION. Sec. 422.** A person licensed under this chapter who allows his or her license to lapse by failing to renew the license, shall on application for renewal pay a penalty determined by the secretary under RCW 43.70.250. If the licensee fails to renew the license before the end of the current licensing period, the department shall issue the license for the next licensing period upon receipt of a written application and fee determined by the secretary under RCW 43.70.250. Persons on lapsed status for three or more years must provide evidence of knowledge and skill of current practice as required by the commission.

**NEW SECTION. Sec. 423.** A person licensed under this chapter who desires to retire temporarily from registered nursing practice, advanced registered nursing practice, or licensed practical nursing practice in this state shall send a written notice to the secretary.

Upon receipt of the notice the department shall place the name of the person on inactive status. While remaining on this status the person shall not practice



in this state any form of nursing provided for in this chapter. When the person desires to resume practice, the person shall apply to the commission for renewal of the license and pay a renewal fee to the state treasurer. Persons on inactive status for three years or more must provide evidence of knowledge and skill of current practice as required by the commission or as provided in this chapter.

**NEW SECTION. Sec. 424.** (1) In the context of the definition of registered nursing practice and advanced registered nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice registered nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing aides;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a registered nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in the practice of nursing as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or a bureau, division, or agency thereof, while in the discharge of his or her official duties;

(h) Permitting the measurement of the powers or range of human vision, or the determination of the accommodation and refractive state of the human eye or the scope of its functions in general, or the fitting or adaptation of lenses for the aid thereof;

(i) Permitting the prescribing or directing the use of, or using, an optical device in connection with ocular exercises, visual training, vision training, or orthoptics;

(j) Permitting the prescribing of contact lenses for, or the fitting and adaptation of contact lenses to, the human eye;

(k) Prohibiting the performance of routine visual screening;

(l) Permitting the practice of dentistry or dental hygiene as defined in chapters 18.32 and 18.29 RCW, respectively;

(m) Permitting the practice of chiropractic as defined in chapter 18.25 RCW including the adjustment or manipulation of the articulation of the spine;

(n) Permitting the practice of podiatric medicine and surgery as defined in chapter 18.22 RCW;

(o) Permitting the performance of major surgery, except such minor surgery as the commission may have specifically authorized by rule adopted in accordance with chapter 34.05 RCW;

(p) Permitting the prescribing of controlled substances as defined in Schedules I through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, except as provided in (r) of this subsection;

(q) Prohibiting the determination and pronouncement of death;

(r) Prohibiting advanced registered nurse practitioners, approved by the commission as certified registered nurse anesthetists from selecting, ordering, or administering controlled substances as defined in Schedules II through IV of the Uniform Controlled Substances Act, chapter 69.50 RCW, consistent with their commission-recognized scope of practice; subject to facility-specific protocols, and subject to a request for certified registered nurse anesthetist anesthesia services issued by a physician licensed under chapter 18.71 RCW, an osteopathic physician and surgeon licensed under chapter 18.57 RCW, a dentist licensed under chapter 18.32 RCW, or a podiatric physician and surgeon licensed under chapter 18.22 RCW; the authority to select, order, or administer Schedule II through IV controlled substances being limited to those drugs that are to be directly administered to patients who require anesthesia for diagnostic, operative, obstetrical, or therapeutic procedures in a hospital, clinic, ambulatory surgical facility, or the office of a practitioner licensed under chapter 18.71, 18.22, 18.36, 18.36A, 18.57, 18.57A, or 18.32 RCW; "select" meaning the decision-making process of choosing a drug, dosage, route, and time of administration; and "order" meaning the process of directing licensed individuals pursuant to their statutory authority to directly administer a drug or to dispense, deliver, or distribute a drug for the purpose of direct administration to a patient, under instructions of the certified registered nurse anesthetist. "Protocol" means a statement regarding practice and documentation concerning such items as categories of patients, categories of medications, or categories of procedures rather than detailed case-specific formulas for the practice of nurse anesthesia.

(2) In the context of the definition of licensed practical nursing practice, this chapter shall not be construed as:

(a) Prohibiting the incidental care of the sick by domestic servants or persons primarily employed as housekeepers, so long as they do not practice practical nursing within the meaning of this chapter;

(b) Preventing a person from the domestic administration of family remedies or the furnishing of nursing assistance in case of emergency;

(c) Prohibiting the practice of practical nursing by students enrolled in approved schools as may be incidental to their course of study or prohibiting the students from working as nursing assistants;

(d) Prohibiting auxiliary services provided by persons carrying out duties necessary for the support of nursing services, including those duties that involve minor nursing services for persons performed in hospitals, nursing homes, or elsewhere under the direction of licensed physicians or the supervision of licensed registered nurses;

(e) Prohibiting or preventing the practice of nursing in this state by a legally qualified nurse of another state or territory whose engagement requires him or her to accompany and care for a patient temporarily residing in this state during the period of one such engagement, not to exceed six months in length, if the person does not represent or hold himself or herself out as a licensed practical nurse licensed to practice in this state;

(f) Prohibiting nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of a church by adherents of the church so long as they do not engage in licensed practical nurse practice as defined in this chapter;

(g) Prohibiting the practice of a legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof, while in the discharge of his or her official duties.

**NEW SECTION. Sec. 425.** An advanced registered nurse practitioner under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in sections 426 and 427 of this act:

(1) Perform specialized and advanced levels of nursing as recognized jointly by the medical and nursing professions, as defined by the commission;

(2) Prescribe legend drugs and Schedule V controlled substances, as defined in the Uniform Controlled Substances Act, chapter 69.50 RCW, within the scope of practice defined by the commission;

(3) Perform all acts provided in section 426 of this act;

(4) Hold herself or himself out to the public or designate herself or himself as an advanced registered nurse practitioner or as a nurse practitioner.

**NEW SECTION. Sec. 426.** A registered nurse under his or her license may perform for compensation nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof, she or he may do the following things that shall not be done by a person not so licensed, except as provided in section 427 of this act:

(1) At or under the general direction of a licensed physician and surgeon, dentist, osteopathic physician and surgeon, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, or advanced registered nurse practitioner acting within the scope of his or her license, administer medications,

treatments, tests, and inoculations, whether or not the severing or penetrating of tissues is involved and whether or not a degree of independent judgment and skill is required;

(2) Delegate to other persons engaged in nursing, the functions outlined in subsection (1) of this section;

(3) Instruct nurses in technical subjects pertaining to nursing;

(4) Hold herself or himself out to the public or designate herself or himself as a registered nurse.

**NEW SECTION.** Sec. 427. A licensed practical nurse under his or her license may perform nursing care, as that term is usually understood, of the ill, injured, or infirm, and in the course thereof may, under the direction of a licensed physician and surgeon, osteopathic physician and surgeon, dentist, podiatric physician and surgeon, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner acting under the scope of his or her license, or at the direction and under the supervision of a registered nurse, administer drugs, medications, treatments, tests, injections, and inoculations, whether or not the piercing of tissues is involved and whether or not a degree of independent judgment and skill is required, when selected to do so by one of the licensed practitioners designated in this section, or by a registered nurse who need not be physically present; if the order given is reduced to writing within a reasonable time and made a part of the patient's record.

**NEW SECTION.** Sec. 428. It is not a violation of chapter 18.71 RCW or of chapter 18.57 RCW for a registered nurse, at or under the general direction of a licensed physician and surgeon, or osteopathic physician and surgeon, to administer prescribed drugs, injections, inoculations, tests, or treatment whether or not the piercing of tissues is involved.

**NEW SECTION.** Sec. 429. (1) In accordance with rules adopted by the commission, public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students or assisted self-catheterization of students who are in the custody of the school district or private school at the time. After consultation with staff of the superintendent of public instruction, the commission shall adopt rules in accordance with chapter 34.05 RCW, that provide for the following and such other matters as the commission deems necessary to the proper implementation of this section:

(a) A requirement for a written, current, and unexpired request from a parent, legal guardian, or other person having legal control over the student that the school district or private school provide for the catheterization of the student;

(b) A requirement for a written, current, and unexpired request from a physician licensed under chapter 18.71 or 18.57 RCW, that catheterization of the student be provided for during the hours when school is in session or the hours when the student is under the supervision of school officials;

(c) A requirement for written, current, and unexpired instructions from an advanced registered nurse practitioner or a registered nurse licensed under this chapter regarding catheterization that include (i) a designation of the school district or private school employee or employees who may provide for the catheterization, and (ii) a description of the nature and extent of any required supervision; and

(d) The nature and extent of acceptable training that shall (i) be provided by a physician, advanced registered nurse practitioner, or registered nurse licensed under chapter 18.71 or 18.57 RCW, or this chapter, and (ii) be required of school district or private school employees who provide for the catheterization of a student under this section, except that a licensed practical nurse licensed under this chapter is exempt from training.

(2) This section does not require school districts to provide intermittent bladder catheterization of students.

**NEW SECTION. Sec. 430.** The department, subject to chapter 34.05 RCW, the Washington Administrative Procedure Act, may adopt such reasonable rules as may be necessary to carry out the duties imposed upon it in the administration of this chapter.

**NEW SECTION. Sec. 431.** As of the effective date of this act, all rules, regulations, decisions, and orders of the board of nursing under chapter 18.88 RCW or the board of practical nursing under chapter 18.78 RCW continue to be in effect under the commission, until the commission acts to modify the rules, regulations, decisions, or orders.

**NEW SECTION. Sec. 432.** Sections 401 through 431 of this act constitute a new chapter in Title 18 RCW.

**NEW SECTION. Sec. 433.** The following acts or parts of acts are each repealed:

- (1) RCW 18.78.005 and 1991 c 84 s 1 & 1983 c 55 s 1;
- (2) RCW 18.78.010 and 1991 c 84 s 13, 1991 c 3 s 185, 1983 c 55 s 2, 1967 c 79 s 1, 1963 c 15 s 1, & 1949 c 222 s 1;
- (3) RCW 18.78.020 and 1991 c 84 s 2, 1983 c 55 s 3, 1967 c 79 s 2, & 1949 c 222 s 2;
- (4) RCW 18.78.030 and 1991 c 84 s 3, 1983 c 55 s 4, & 1949 c 222 s 3;
- (5) RCW 18.78.040 and 1991 c 84 s 4, 1984 c 287 s 47, 1983 c 55 s 5, 1975-'76 2nd ex.s. c 34 s 45, 1967 c 188 s 4, & 1949 c 222 s 4;
- (6) RCW 18.78.050 and 1991 c 84 s 5, 1988 c 211 s 4, 1986 c 259 s 129, 1983 c 55 s 6, 1979 c 158 s 64, 1967 c 79 s 3, & 1949 c 222 s 5;
- (7) RCW 18.78.054 and 1987 c 150 s 49 & 1986 c 259 s 128;
- (8) RCW 18.78.055 and 1991 c 84 s 6 & 1983 c 55 s 7;
- (9) RCW 18.78.058 and 1987 c 150 s 50;
- (10) RCW 18.78.060 and 1991 c 84 s 7, 1988 c 212 s 1, 1983 c 55 s 8, 1971 ex.s. c 292 s 26, 1963 c 15 s 2, & 1949 c 222 s 6;

- (11) RCW 18.78.070 and 1986 c 259 s 130, 1983 c 55 s 9, & 1949 c 222 s 7;
- (12) RCW 18.78.072 and 1988 c 211 s 3;
- (13) RCW 18.78.080 and 1991 c 84 s 8, 1985 c 7 s 65, 1979 c 158 s 65, 1975 1st ex.s. c 30 s 68, 1963 c 15 s 3, & 1949 c 222 s 9;
- (14) RCW 18.78.090 and 1991 c 84 s 9, 1986 c 259 s 131, 1985 c 7 s 66, 1983 c 55 s 10, 1979 c 158 s 66, 1975 1st ex.s. c 30 s 69, 1971 ex.s. c 266 s 14, 1967 c 79 s 4, 1963 c 15 s 4, & 1949 c 222 s 10;
- (15) RCW 18.78.100 and 1991 c 84 s 10, 1991 c 3 s 190, 1983 c 55 s 11, 1971 c 68 s 1, & 1949 c 222 s 11;
- (16) RCW 18.78.160 and 1991 c 84 s 12, 1983 c 55 s 15, & 1949 c 222 s 17;
- (17) RCW 18.78.182 and 1991 c 84 s 11, 1983 c 55 s 19, 1971 c 68 s 2, & 1967 c 79 s 6;
- (18) RCW 18.78.225 and 1991 c 3 s 192 & 1988 c 211 s 12;
- (19) RCW 18.78.900 and 1949 c 222 s 19;
- (20) RCW 18.78.901 and 1983 c 55 s 22;
- (21) RCW 18.88.010 and 1973 c 133 s 1 & 1949 c 202 s 1;
- (22) RCW 18.88.020 and 1973 c 133 s 2 & 1949 c 202 s 2;
- (23) RCW 18.88.030 and 1991 c 3 s 213, 1989 c 114 s 1, 1979 c 158 s 69, 1973 c 133 s 3, 1961 c 288 s 1, & 1949 c 202 s 4;
- (24) RCW 18.88.050 and 1989 c 114 s 2, 1973 c 133 s 4, & 1949 c 202 s 5;
- (25) RCW 18.88.060 and 1973 c 133 s 5, 1961 c 288 s 3, & 1949 c 202 s 6;
- (26) RCW 18.88.070 and 1989 c 114 s 3, 1973 c 133 s 6, & 1949 c 202 s 7;
- (27) RCW 18.88.080 and 1991 c 3 s 214, 1988 c 211 s 8, 1984 c 287 s 50, 1977 c 75 s 12, 1975-'76 2nd ex.s. c 34 s 50, 1973 c 133 s 7, 1961 c 288 s 4, & 1949 c 202 s 8;
- (28) RCW 18.88.086 and 1987 c 150 s 57 & 1986 c 259 s 135;
- (29) RCW 18.88.090 and 1991 c 3 s 215, 1975-'76 2nd ex.s. c 34 s 51, 1973 c 133 s 8, 1961 c 288 s 5, & 1949 c 202 s 9;
- (30) RCW 18.88.100 and 1973 c 133 s 9, 1961 c 288 s 6, & 1949 c 202 s 10;
- (31) RCW 18.88.110 and 1973 c 133 s 10 & 1949 c 202 s 11;
- (32) RCW 18.88.120 and 1973 c 133 s 11 & 1949 c 202 s 12;
- (33) RCW 18.88.130 and 1989 c 114 s 4, 1973 c 133 s 12, 1961 s 288 s 7, & 1949 c 202 s 13;
- (34) RCW 18.88.140 and 1989 c 114 s 5, 1973 c 133 s 13, 1961 c 288 s 8, & 1949 c 202 s 14;
- (35) RCW 18.88.150 and 1989 c 114 s 6, 1988 c 211 s 5, 1973 c 133 s 14, 1961 c 288 s 9, & 1949 c 202 s 15;

- (36) RCW 18.88.160 and 1991 c 3 s 216, 1985 c 7 s 68, 1975 1st ex.s. c 30 s 77, 1973 c 133 s 15, 1961 c 288 s 10, & 1949 c 202 s 16;
- (37) RCW 18.88.170 and 1973 c 133 s 16 & 1949 c 202 s 17;
- (38) RCW 18.88.175 and 1991 c 3 s 217 & 1988 c 211 s 13;
- (39) RCW 18.88.190 and 1991 c 3 s 218, 1988 c 211 s 9, 1985 c 7 s 69, 1979 ex.s. c 106 s 1, 1975 1st ex.s. c 30 s 78, 1973 c 133 s 18, 1971 ex.s. c 266 s 18, 1961 c 288 s 11, & 1949 c 202 s 19;
- (40) RCW 18.88.200 and 1991 c 3 s 219, 1988 c 211 s 10, 1985 c 7 s 70, 1975 1st ex.s. c 30 s 79, 1973 c 133 s 19, 1961 c 288 s 12, & 1949 c 202 s 20;
- (41) RCW 18.88.220 and 1991 c 3 s 220, 1988 c 211 s 11, 1973 c 133 s 20, & 1949 c 202 s 22;
- (42) RCW 18.88.270 and 1986 c 259 s 136, 1973 c 133 s 26, & 1949 c 202 s 27;
- (43) RCW 18.88.280 and 1993 c 225 s 1, 1989 c 114 s 7, 1988 c 37 s 1, 1973 c 133 s 27, 1961 c 288 s 13, & 1949 c 202 s 28;
- (44) RCW 18.88.285 and 1989 c 114 s 8, 1973 c 133 s 28, 1967 c 79 s 9, & 1961 c 288 s 14;
- (45) RCW 18.88.290 and 1955 c 62 s 1;
- (46) RCW 18.88.295 and 1988 c 48 s 1;
- (47) RCW 18.88.300 and 1973 c 133 s 29;
- (48) RCW 18.88.900 and 1949 c 202 s 29; and
- (49) RCW 18.88A.070 and 1991 c 16 s 9, 1991 c 3 s 223, 1989 c 300 s 9, & 1988 c 267 s 9.

### MENTAL HEALTH CARE

**Sec. 501.** RCW 18.19.070 and 1991 c 3 s 22 are each amended to read as follows:

(1) (~~Within sixty days of July 26, 1987, the secretary shall have authority to appoint advisory committees to further the purposes of this chapter. Each such committee shall be composed of five members, one member initially appointed for a term of one year, two for terms of two years, and two for terms of three years. No person may serve as a member of the committee for more than two consecutive terms.~~) The Washington state mental health quality assurance council is created, consisting of nine members appointed by the secretary. All appointments shall be for a term of four years. No person may serve as a member of the council for more than two consecutive full terms.

Voting members of the council must include one social worker certified under RCW 18.19.110, one mental health counselor certified under RCW 18.19.120, one marriage and family therapist certified under RCW 18.19.130, one counselor registered under RCW 18.19.090, one hypnotherapist registered under RCW 18.19.090, and two public members. Each member of the council must be a citizen of the United States and a resident of this state. Public members of the council may not be a member of any other health care licensing board or commission, or have a fiduciary obligation to a facility rendering health services

regulated by the council, or have a material or financial interest in the rendering of health services regulated by the council.

The secretary may appoint the initial members of the council to staggered terms of from one to four years. Thereafter, all members shall be appointed to full four-year terms. Members of the council hold office until their successors are appointed.

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

(2) The ~~((advisory committees))~~ council shall ~~((each))~~ meet at the times and places designated by the secretary and shall hold meetings during the year as necessary to provide advice to the secretary.

Each member of ~~((an advisory committee))~~ the council shall be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060. In addition, members of the ~~((committees))~~ council shall be compensated in accordance with RCW 43.03.240 when engaged in the authorized business of ~~((their committee.~~

~~(3) Members of an advisory committee shall be residents of this state. Each committee shall be composed of four individuals registered or certified in the category designated by the committee title, and one member who is a member of the public))~~ the council. The members of the council are immune from suit in an action, civil or criminal, based on their official acts performed in good faith as members of the council.

## ACUPUNCTURE

**Sec. 502.** RCW 18.06.080 and 1992 c 110 s 3 are each amended to read as follows:

(1) The secretary is hereby authorized and empowered to execute the provisions of this chapter and shall offer examinations in acupuncture at least twice a year at such times and places as the secretary may select. The examination shall be a written examination and may include a practical examination.

(2) The secretary shall develop or approve a certification examination in the subjects that the secretary determines are within the scope of and commensurate with the work performed by certified acupuncturists and shall include but not necessarily be limited to anatomy, physiology, microbiology, biochemistry, pathology, hygiene, and acupuncture. All application papers shall be deposited with the secretary and there retained for at least one year, when they may be destroyed.

(3) If the examination is successfully passed, the secretary shall confer on such candidate the title of Certified Acupuncturist.

(4) The secretary may appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated



in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(5) The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

NEW SECTION. Sec. 503. RCW 18.06.170 and 1991 c 3 s 16 & 1985 c 326 s 17 are each repealed.

### OCULARISTS

**Sec. 504.** RCW 18.55.020 and 1991 c 180 s 2 are each amended to read as follows:

The terms defined in this section shall have the meaning ascribed to them wherever appearing in this chapter, unless a different meaning is specifically used to such term in such statute.

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

(2) "Secretary" means the secretary of health.

(3) "Ocularist" means a person licensed under this chapter.

~~(4) ("Advisory committee" means the state ocularist advisory committee.~~

~~(5))~~ (5) "Apprentice" means a person designated an apprentice in the records of the secretary to receive from a licensed ocularist training and direct supervision in the work of an ocularist.

~~((6))~~ (5) "Stock-eye" means an ocular stock prosthesis that has not been originally manufactured or altered by the ocularist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" means either taking away or adding materials, or colorization, or otherwise changing the prosthesis' appearance, function, or fit in the socket or on the implant of the patient or customer.

~~((7))~~ (6) "Modified stock-eye" means a stock-eye~~((, as defined in subsection (6) of this section,))~~ that has been altered in some manner by the ocularist or service provider selling or fitting, or both, said prosthesis to a patient or customer. "Altered" is as defined in subsection ~~((6))~~ (5) of this section. A modified stock-eye cannot be defined as either a "custom" or "impression-fitted" eye or prosthesis by adding material that incorporates an impression-surface of the patient or customer socket or implant surfaces.

~~((8))~~ (7) "Custom-eye" means an original, newly manufactured eye or prosthesis that has been specifically crafted by an ocularist or authorized service provider for the patient or customer to whom it is sold or provided. The "custom-eye" may be either an impression-fitted eye (an impression of the socket or implant surfaces) or an empirical/wax pattern-fitted method eye, or a combination of either, as delineated in the ocularist examination.

### RADIOLOGIC TECHNOLOGISTS

**Sec. 505.** RCW 18.84.020 and 1991 c 222 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) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) "Licensed practitioner" means any licensed health care practitioner performing services within the person's authorized scope of practice.

(4) "Radiologic technologist" means an individual certified under this chapter, other than a licensed practitioner, who practices radiologic technology as a:

(a) Diagnostic radiologic technologist, who is a person who actually handles x-ray equipment in the process of applying radiation on a human being for diagnostic purposes at the direction of a licensed practitioner; or

(b) Therapeutic radiologic technologist, who is a person who uses radiation-generating equipment for therapeutic purposes on human subjects at the direction of a licensed practitioner; or

(c) Nuclear medicine technologist, who is a person who prepares radiopharmaceuticals and administers them to human beings for diagnostic and therapeutic purposes and who performs in vivo and in vitro detection and measurement of radioactivity for medical purposes at the direction of a licensed practitioner.

~~(5) ("Advisory committee" means the Washington state radiologic technology advisory committee.~~

~~(6))~~ (6) "Approved school of radiologic technology" means a school of radiologic technology approved by the council on medical education of the American medical association or a school found to maintain the equivalent of such a course of study as determined by the department. Such school may be operated by a medical or educational institution, and for the purpose of providing the requisite clinical experience, shall be affiliated with one or more general hospitals.

~~((7))~~ (7) "Radiologic technology" means the use of ionizing radiation upon a human being for diagnostic or therapeutic purposes.

~~((8))~~ (8) "Radiologist" means a physician certified by the American board of radiology or the American osteopathic board of radiology.

~~((9))~~ (9) "Registered x-ray technician" means a person who is registered with the department, and who applies ionizing radiation at the direction of a licensed practitioner.

**Sec. 506.** RCW 18.84.040 and 1991 c 222 s 11 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary may ~~((in consultation with the advisory committee))~~:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all registration, certification, and renewal fees in accordance with RCW 43.70.250;

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

(d) Evaluate and designate those schools from which graduation will be accepted as proof of an applicant's eligibility to receive a certificate;

(e) Determine whether alternative methods of training are equivalent to formal education, and to establish forms, procedures, and criteria for evaluation of an applicant's alternative training to determine the applicant's eligibility to receive a certificate;

(f) Issue a certificate to any applicant who has met the education, training, and conduct requirements for certification; and

(g) Issue a registration to an applicant who meets the requirement for a registration.

(2) The secretary may hire clerical, administrative, and investigative staff as needed to implement this chapter.

(3) The Uniform Disciplinary Act, chapter 18.130 RCW, governs the issuance and denial of registrations and certifications, unregistered and uncertified practice, and the discipline of registrants and certificants under this chapter. The secretary is the disciplining authority under this chapter.

(4) The secretary may appoint ad hoc members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

**Sec. 507.** RCW 18.84.070 and 1991 c 3 s 208 are each amended to read as follows:

The secretary, ad hoc committee members (~~(of the committee)~~), or individuals acting on their behalf are immune from suit in any civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

**Sec. 508.** RCW 18.84.090 and 1991 c 3 s 210 are each amended to read as follows:

The secretary (~~(, in consultation with the advisory committee,)~~) shall establish by rule the standards and procedures for approval of schools and alternate training, and may contract with individuals or organizations having expertise in the profession or in education to assist in evaluating those applying for approval. The standards and procedures set shall apply equally to schools and training within the United States and those in foreign jurisdictions.

**Sec. 509.** RCW 18.84.110 and 1991 c 3 s 212 are each amended to read as follows:

The secretary(~~(, in consultation with the advisory committee,)~~) shall establish by rule the requirements and fees for renewal of certificates. Failure to renew invalidates the certificate and all privileges granted by the certificate. In the event a certificate has lapsed for a period longer than three years, the certificant shall demonstrate competence to the satisfaction of the secretary by continuing education or under the other standards determined by the secretary.

**NEW SECTION. Sec. 510.** RCW 18.84.060 and 1991 c 3 s 207 & 1987 c 412 s 7 are each repealed.

### RESPIRATORY CARE PRACTITIONERS

**Sec. 511.** RCW 18.89.020 and 1991 c 3 s 227 are each amended to read as follows:

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

~~(1) ("Advisory committee" means the Washington state advisory respiratory care committee.~~

~~(2))~~ "Department" means the department of health.

~~((3))~~ (2) "Secretary" means the secretary of health or the secretary's designee.

~~((4))~~ (3) "Respiratory care practitioner" means an individual certified under this chapter.

~~((5))~~ (4) "Physician" means an individual licensed under chapter 18.57 or 18.71 RCW.

~~((6))~~ (5) "Rural hospital" means a hospital located anywhere in the state except the following areas:

(a) The entire counties of Snohomish (including Camano Island), King, Kitsap, Pierce, Thurston, Clark, and Spokane;

(b) Areas within a twenty-mile radius of an urban area with a population exceeding thirty thousand persons; and

(c) Those cities or city-clusters located in rural counties but which for all practical purposes are urban. These areas are Bellingham, Aberdeen-Hoquiam, Longview-Kelso, Wenatchee, Yakima, Sunnyside, Richland-Kennewick-Pasco, and Walla Walla.

**Sec. 512.** RCW 18.89.050 and 1991 c 3 s 228 are each amended to read as follows:

(1) In addition to any other authority provided by law, the secretary(~~(, in consultation with the advisory committee,)~~) may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Set all certification, examination, and renewal fees in accordance with RCW 43.70.250;

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

(d) Issue a certificate to any applicant who has met the education, training, and examination requirements for certification;

(e) Hire clerical, administrative, and investigative staff as needed to implement this chapter and hire individuals certified under this chapter to serve as examiners for any practical examinations;

(f) Approve those schools from which graduation will be accepted as proof of an applicant's eligibility to take the certification examination;

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

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

(i) Determine which states have legal credentialing requirements equivalent to those of this state and issue certificates to individuals legally credentialed in those states without examination; ~~((and))~~

(j) Define and approve any experience requirement for certification; and

(k) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated times and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060.

(2) The provisions of chapter 18.130 RCW shall govern the issuance and denial of certificates, uncertified practice, and the disciplining of persons certified under this chapter. The secretary shall be the disciplining authority under this chapter.

**Sec. 513.** RCW 18.89.080 and 1991 c 3 s 231 are each amended to read as follows:

The secretary, ad hoc committee members ~~((of the advisory committee))~~, or individuals acting on their behalf are immune from suit in any civil action based on any certification or disciplinary proceedings, or other official acts performed in the course of their duties.

NEW SECTION. **Sec. 514.** RCW 18.89.070 and 1991 c 3 s 230 & 1987 c 415 s 8 are each repealed.

### HEALTH CARE ASSISTANTS

**Sec. 515.** RCW 18.135.030 and 1991 c 3 s 273 are each amended to read as follows:

The secretary~~((r))~~ or the secretary's designee, with the advice of designees of the ~~((board of))~~ medical ~~((examiners))~~ care quality assurance commission, the board of osteopathic medicine and surgery, the ~~((podiatry))~~ podiatric medical board, and the ~~((board of))~~ nursing care quality assurance commission, shall adopt rules necessary to administer, implement, and enforce this chapter and establish the minimum requirements necessary for a health care facility or health care practitioner to certify a health care assistant capable of performing the

functions authorized in this chapter. The rules shall establish minimum requirements for each and every category of health care assistant. Said rules shall be adopted after fair consideration of input from representatives of each category. These requirements shall ensure that the public health and welfare are protected and shall include, but not be limited to, the following factors:

(1) The education and occupational qualifications for the health care assistant category;

(2) The work experience for the health care assistant category;

(3) The instruction and training provided for the health care assistant category; and

(4) The types of drugs or diagnostic agents which may be administered by injection by health care assistants working in a hospital or nursing home. The rules established pursuant to this subsection shall not prohibit health care assistants working in a health care facility other than a nursing home or hospital from performing the functions authorized under this chapter.

### **DIETITIANS AND NUTRITIONISTS**

**Sec. 516.** RCW 18.138.070 and 1991 c 3 s 284 are each amended to read as follows:

In addition to any other authority provided by law, the secretary may:

(1) Adopt rules in accordance with chapter 34.05 RCW necessary to implement this chapter;

(2) Establish forms necessary to administer this chapter;

(3) Issue a certificate to an applicant who has met the requirements for certification and deny a certificate to an applicant who does not meet the minimum qualifications;

(4) Hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and hire individuals, including those certified under this chapter, to serve as consultants as necessary to implement and administer this chapter;

(5) Maintain the official departmental record of all applicants and certificate holders;

(6) Conduct a hearing, pursuant to chapter 34.05 RCW, on an appeal of a denial of certification based on the applicant's failure to meet the minimum qualifications for certification;

(7) Investigate alleged violations of this chapter and consumer complaints involving the practice of persons representing themselves as certified dietitians or certified nutritionists;

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

(9) Conduct disciplinary proceedings, impose sanctions, and assess fines for violations of this chapter or any rules adopted under it in accordance with chapter 34.05 RCW;

(10) Set all certification, renewal, and late renewal fees in accordance with RCW 43.70.250; ~~(and)~~

(11) Set certification expiration dates and renewal periods for all certifications under this chapter; and

(12) Appoint members of the profession to serve in an ad hoc advisory capacity to the secretary in carrying out this chapter. The members will serve for designated time and provide advice on matters specifically identified and requested by the secretary. The members shall be compensated in accordance with RCW 43.03.220 and reimbursed for travel expenses under RCW 43.03.040 and 43.03.060. The secretary, ad hoc committee members, or individuals acting in their behalf are immune from suit in a civil action based on any certification or disciplinary proceedings or other official acts performed in the course of their duties.

NEW SECTION. Sec. 517. The secretary shall appoint a health professions advisory committee consisting of one member from each profession represented by an ad hoc advisory committee established under RCW 18.06.080, 18.84.040, 18.89.050, and 18.138.070, and one member of the health assistants profession as regulated under chapter 18.135 RCW, one member of the ocularists profession as regulated under chapter 18.55 RCW, and one member of the nursing assistants profession as regulated under chapter 18.88A RCW. The members shall serve three-year terms. Of the initial members, two shall be appointed for a one-year term, two shall be appointed for a two-year term, and the remainder shall be appointed for three-year terms. Thereafter, members shall be appointed for three-year terms. The committee shall advise the secretary in matters concerning changes in the professions, health care technologies, and health policies as requested by the secretary or initiated by the committee. The committee members shall be eligible to receive travel expenses under RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 518. RCW 18.138.080 and 1991 c 3 s 285 & 1988 c 277 s 8 are each repealed.

### UNIFORM DISCIPLINARY ACT

Sec. 601. RCW 18.130.010 and 1991 c 332 s 1 are each amended to read as follows:

It is the intent of the legislature to strengthen and consolidate disciplinary and licensure procedures for the licensed health and health-related professions and businesses by providing a uniform disciplinary act with standardized procedures for the licensure of health care professionals and the enforcement of laws the purpose of which is to assure the public of the adequacy of professional competence and conduct in the healing arts.

It is also the intent of the legislature that all health and health-related professions newly credentialed by the state come under the Uniform Disciplinary Act.

Further, the legislature declares that the addition of public members on all health care commissions and boards can give both the state and the public, which it has a statutory responsibility to protect, assurances of accountability and confidence in the various practices of health care.

**Sec. 602.** RCW 18.130.020 and 1989 1st ex.s. c 9 s 312 are each amended to read as follows:

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

(1) "Disciplining authority" means ~~((a) the board of medical examiners, the board of dental examiners, and the board of chiropractic examiners with respect to applicants for a license for the respective professions, (b) the medical disciplinary board, the dental disciplinary board, and the chiropractic disciplinary board with respect to holders of licenses for the respective professions, or (c))~~ the agency ~~((or))~~ board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or business license upon a finding of a violation of this chapter or a chapter specified under RCW 18.130.040.

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

(3) "Secretary" means the secretary of health or the secretary's designee.

(4) "Board" means any of those boards specified in RCW 18.130.040.

(5) "Commission" means any of the commissions specified in RCW 18.130.040.

(6) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.130.040 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a consumer, through offerings, advertisements, or use of a professional title or designation, that the individual is qualified to practice a profession or operate a business identified in RCW 18.130.040, without holding a valid, unexpired, unrevoked, and unsuspended license to do so.

~~((6))~~ (7) "Disciplinary action" means sanctions identified in RCW 18.130.160.

~~((7))~~ (8) "Practice review" means an investigative audit of records related to the complaint, without prior identification of specific patient or consumer names, to determine whether unprofessional conduct may have been committed.

~~((8))~~ (9) "Health agency" means city and county health departments and the department of health.

~~((9))~~ (10) "License," "licensing," and "licensure" shall be deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.120.020.



**Sec. 603.** RCW 18.130.040 and 1993 c 367 s 4 are each amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed under chapter 18.34 RCW;

(ii) Naturopaths licensed under chapter 18.36A RCW;

(iii) Midwives licensed under chapter 18.50 RCW;

(iv) Ocularists licensed under chapter 18.55 RCW;

(v) Massage operators and businesses licensed under chapter 18.108 RCW;

(vi) Dental hygienists licensed under chapter 18.29 RCW;

(vii) Acupuncturists certified under chapter 18.06 RCW;

(viii) Radiologic technologists certified and x-ray technicians registered under chapter 18.84 RCW;

(ix) Respiratory care practitioners certified under chapter 18.89 RCW;

(x) Persons registered or certified under chapter 18.19 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified under chapter ~~((18.88A))~~ 18.— (sections 401 through 431 of this act) RCW;

(xiii) Health care assistants certified under chapter 18.135 RCW;

(xiv) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xv) Sex offender treatment providers certified under chapter 18.155 RCW;

and

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205.

(b) The boards and commissions having authority under this chapter are as follows:

(i) The podiatric medical board as established in chapter 18.22 RCW;

(ii) The chiropractic ~~((disciplinary board))~~ quality assurance commission as established in chapter ~~((18.26 RCW governing licenses issued under chapter))~~ 18.25 RCW;

(iii) The dental ~~((disciplinary board))~~ quality assurance commission as established in chapter 18.32 RCW;

(iv) The ~~((council))~~ board on fitting and dispensing of hearing aids as established in chapter 18.35 RCW;

(v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;

(vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;

(vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;

(viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;

(ix) The board of pharmacy as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;

(x) The medical (~~disciplinary board~~) quality assurance commission as established in chapter (~~18.72~~) 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;

(xi) The board of physical therapy as established in chapter 18.74 RCW;

(xii) The board of occupational therapy practice as established in chapter 18.59 RCW;

(xiii) The (~~board of practical~~) nursing care quality assurance commission as established in chapter (~~18.78~~) 18.— RCW (sections 401 through 431 of this act) governing licenses issued under that chapter;

(xiv) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;

(xv) (~~The board of nursing as established in chapter 18.88 RCW; and~~

~~(xvi))~~ The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. (~~However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW.~~) This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

NEW SECTION. Sec. 604. A new section is added to chapter 18.130 RCW to read as follows:

(1) The settlement process must be substantially uniform for licensees governed by regulatory entities having authority under this chapter.

(2) Disclosure of the identity of reviewing disciplining authority members who participate in the settlement process is available to the respondents or their legal representative upon request.

(3) The settlement conference will occur only if a settlement is not achieved through written documents. Respondents will have the opportunity to conference either by phone or in person with the reviewing disciplining authority member if the respondent chooses. Respondents may also have their attorney conference

either by phone or in person with the reviewing disciplining authority member without the respondent being present personally.

(4) If the respondent wants to meet in person with the reviewing disciplining authority member, he or she will travel to the reviewing disciplinary authority member and have such a conference with the attorney general in attendance either by phone or in person.

**Sec. 605.** RCW 18.130.300 and 1993 c 367 s 10 are each amended to read as follows:

The secretary, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary proceedings or other official acts performed in the course of their duties.

### CONFORMING AMENDMENTS

**Sec. 701.** RCW 4.24.260 and 1975 1st ex.s. c 114 s 3 are each amended to read as follows:

Physicians licensed under chapter 18.71 RCW(~~(+)~~), dentists licensed under chapter 18.32 RCW, and pharmacists licensed under chapter 18.64 RCW who, in good faith, file charges or present evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before the medical (~~(disciplinary board)~~) quality assurance commission established under chapter (~~(+8.72))~~ 18.71 RCW, in a proceeding under chapter 18.32 RCW, or to the board of pharmacy under RCW 18.64.160 shall be immune from civil action for damages arising out of such activities.

**Sec. 702.** RCW 4.24.290 and 1985 c 326 s 26 are each amended to read as follows:

In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, an acupuncturist certified under chapter 18.06 RCW, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a (~~(podiatrist)~~) podiatric physician and surgeon licensed under chapter 18.22 RCW, or a nurse licensed under (~~(chapters 18.78 or 18.88))~~ chapter 18.— RCW (sections 401 through 431 of this act), the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care, and learning possessed at that time by other persons in the same profession, and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient.

**Sec. 703.** RCW 5.62.010 and 1987 c 198 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) "Registered nurse" means a registered nurse or advanced nurse practitioner licensed under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act).

(2) "Protocol" means a regimen to be carried out by a registered nurse and prescribed by a licensed physician under chapter 18.71 RCW, or a licensed osteopathic physician under chapter 18.57 RCW, which is consistent with chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) and the rules adopted under that chapter ~~((18.88 RCW))~~.

(3) "Primary care" means screening, assessment, diagnosis, and treatment for the purpose of promotion of health and detection of disease or injury, as authorized by chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) and the rules adopted under that chapter ~~((18.88 RCW))~~.

**Sec. 704.** RCW 18.50.032 and 1981 c 53 s 10 are each amended to read as follows:

Registered nurses and nurse midwives certified by the ~~((board of))~~ care quality assurance commission under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) shall be exempt from the requirements and provisions of this chapter.

**Sec. 705.** RCW 18.50.040 and 1991 c 3 s 106 are each amended to read as follows:

(1) Any person seeking to be examined shall present to the secretary, at least forty-five days before the commencement of the examination, a written application on a form or forms provided by the secretary setting forth under affidavit such information as the secretary may require and proof the candidate: has received a high school degree or its equivalent; that the candidate is twenty-one years of age or older; that the candidate has received a certificate or diploma from a midwifery program accredited by the secretary and licensed under chapter 28C.10 RCW, when applicable, or a certificate or diploma in a foreign institution on midwifery of equal requirements conferring the full right to practice midwifery in the country in which it was issued. The diploma must bear the seal of the institution from which the applicant was graduated. Foreign candidates must present with the application a translation of the foreign certificate or diploma made by and under the seal of the consulate of the country in which the certificate or diploma was issued.

(2) The candidate shall meet the following conditions:

(a) Obtaining a minimum period of midwifery training for at least three years including the study of the basic nursing skills that the department shall prescribe by rule. However, if the applicant is a registered nurse or licensed practical nurse under chapter ~~((18.88 RCW, a licensed practical nurse under chapter 18.78 RCW))~~ 18.— RCW (sections 401 through 431 of this act), or has had previous nursing education or practical midwifery experience, the required

period of training may be reduced depending upon the extent of the candidate's qualifications as determined under rules adopted by the department. In no case shall the training be reduced to a period of less than two years.

(b) Meeting minimum educational requirements which shall include studying obstetrics; neonatal pediatrics; basic sciences; female reproductive anatomy and physiology; behavioral sciences; childbirth education; community care; obstetrical pharmacology; epidemiology; gynecology; family planning; genetics; embryology; neonatology; the medical and legal aspects of midwifery; nutrition during pregnancy and lactation; breast feeding; nursing skills, including but not limited to injections, administering intravenous fluids, catheterization, and aseptic technique; and such other requirements prescribed by rule.

(c) For a student midwife during training, undertaking the care of not less than fifty women in each of the prenatal, intrapartum, and early postpartum periods, but the same women need not be seen through all three periods. A student midwife may be issued a permit upon the satisfactory completion of the requirements in (a), (b), and (c) of this subsection and the satisfactory completion of the licensure examination required by RCW 18.50.060. The permit permits the student midwife to practice under the supervision of a midwife licensed under this chapter, a physician or a certified nurse-midwife licensed under the authority of chapter ~~((18-88))~~ 18.— RCW (sections 401 through 431 of this act). The permit shall expire within one year of issuance and may be extended as provided by rule.

(d) Observing an additional fifty women in the intrapartum period before the candidate qualifies for a license.

(3) Notwithstanding subsections (1) and (2) of this section, the department shall adopt rules to provide credit toward the educational requirements for licensure before July 1, 1988, of nonlicensed midwives, including rules to provide:

- (a) Credit toward licensure for documented deliveries;
- (b) The substitution of relevant experience for classroom time; and
- (c) That experienced lay midwives may sit for the licensing examination without completing the required coursework.

The training required under this section shall include training in either hospitals or alternative birth settings or both with particular emphasis on learning the ability to differentiate between low-risk and high-risk pregnancies.

**Sec. 706.** RCW 18.50.140 and 1991 c 3 s 114 are each amended to read as follows:

The midwifery advisory committee is created.

The committee shall be composed of one physician who is a practicing obstetrician; one practicing physician; one certified nurse midwife licensed under chapter ~~((18-88))~~ 18.— RCW (sections 401 through 431 of this act); three midwives licensed under this chapter; and one public member, who shall have no financial interest in the rendering of health services. The committee may seek

other consultants as appropriate, including persons trained in childbirth education and perinatology or neonatology.

The members are appointed by the secretary and serve at the pleasure of the secretary but may not serve more than five years consecutively. The terms of office shall be staggered. Members of the committee shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 (~~as now or hereafter amended~~).

**Sec. 707.** RCW 18.50.115 and 1991 c 3 s 112 are each amended to read as follows:

A midwife licensed under this chapter may obtain and administer prophylactic ophthalmic medication, postpartum oxytocic, vitamin K, Rho immune globulin (human), and local anesthetic and may administer such other drugs or medications as prescribed by a physician. A pharmacist who dispenses such drugs to a licensed midwife shall not be liable for any adverse reactions caused by any method of use by the midwife.

The secretary, after consultation with representatives of the midwife advisory committee, the board of pharmacy, and the ~~((board of))~~ medical ~~((examiners))~~ quality assurance commission, may ~~((issue regulations which))~~ adopt rules that authorize licensed midwives to purchase and use legend drugs and devices in addition to the drugs authorized in this chapter.

**Sec. 708.** RCW 18.88A.020 and 1991 c 16 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) "Department" means the department of health.

(2) "Secretary" means the secretary of health.

(3) ~~((Board))~~ Commission means the Washington ~~((state board of))~~ nursing care quality assurance commission.

(4) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are (a) "nursing assistant-certified," an individual certified under this chapter, (b) "nursing assistant-registered," an individual registered under this chapter.

(5) ~~((Committee))~~ means the ~~Washington state nursing assistant advisory committee~~.

~~(6))~~ "Approved training program" means a nursing assistant-certified training program approved by the ~~((board))~~ commission. For community college, vocational-technical institutes, skill centers, and secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the ~~((board))~~ commission in cooperation with the board for community and technical colleges ~~((education))~~ or the superintendent of public instruction.

~~((7))~~ (6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, or other entity for delivery of health care services as defined by the ~~((board))~~ commission.

~~((8))~~ (7) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

**Sec. 709.** RCW 18.88A.030 and 1991 c 16 s 3 are each amended to read as follows:

(1) A nursing assistant may assist in the care of individuals as delegated by and under the direction and supervision of a licensed (registered) nurse or licensed practical nurse.

(2) A health care facility shall not assign a nursing assistant-registered to provide care until the nursing assistant-registered has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

(3) Nothing in this chapter shall be construed to confer on a nursing assistant the authority to administer medication or to practice as a licensed (registered) nurse ~~((as defined in chapter 18.88 RCW))~~ or licensed practical nurse as defined in chapter ~~((18.78))~~ 18.— RCW (sections 401 through 431 of this act).

(4) Certification is voluntary for nursing assistants working in health care facilities other than nursing homes unless otherwise required by state or federal law or regulation.

(5) The ~~((board of nursing shall have the authority to))~~ commission may adopt rules to implement the provisions of this chapter.

**Sec. 710.** RCW 18.88A.060 and 1991 c 16 s 8 are each amended to read as follows:

In addition to any other authority provided by law, the ~~((state board of nursing has the authority to))~~ commission may:

(1) Determine minimum education requirements and approve training programs;

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

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

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

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

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

**Sec. 711.** RCW 18.88A.080 and 1991 c 16 s 10 are each amended to read as follows:

(1) The secretary shall issue a registration to any applicant who pays any applicable fees and submits, on forms provided by the secretary, the applicant's name, address, and other information as determined by the secretary, provided there are no grounds for denial of registration or issuance of a conditional registration under this chapter or chapter 18.130 RCW.

(2) Applicants must file an application with the ((~~board~~)) commission for registration within three days of employment.

**Sec. 712.** RCW 18.88A.085 and 1991 c 16 s 11 are each amended to read as follows:

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

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

(b) Successful completion of a competency evaluation.

(2) In addition, applicants shall be subject to the grounds for denial of certification under chapter 18.130 RCW.

**Sec. 713.** RCW 18.88A.090 and 1991 c 3 s 225 are each amended to read as follows:

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

(2) The ((~~board~~)) commission shall examine each applicant, by a written or oral and a manual component of competency evaluation. Examinations shall be limited to the purpose of determining whether the applicant possesses the minimum skill and knowledge necessary to practice competently.

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

(4) Any applicant failing to make the required grade in the first examination may take up to three subsequent examinations as the applicant desires upon prepaying a fee determined by the secretary under RCW 43.70.250 for each subsequent examination. Upon failing four examinations, the secretary may invalidate the original application and require such remedial education before the person may take future examinations.

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



**Sec. 714.** RCW 18.88A.100 and 1991 c 16 s 12 and 1991 c 3 s 226 are each reenacted and amended to read as follows:

The secretary shall waive the competency evaluation and certify a person to practice within the state of Washington if the ((~~board~~)) commission determines that the person meets commonly accepted standards of education and experience for the nursing assistants. This section applies only to those individuals who file an application for waiver by December 31, 1991.

**Sec. 715.** RCW 18.88A.130 and 1991 c 16 s 15 are each amended to read as follows:

The secretary shall establish by rule the procedural requirements and fees for renewal of a registration or certificate. Failure to renew shall invalidate the credential and all privileges granted by the credential. If a certificate has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the ((~~board~~)) commission by taking continuing education courses, or meeting other standards determined by the ((~~board~~)) commission.

**Sec. 716.** RCW 18.89.040 and 1987 c 415 s 5 are each amended to read as follows:

A respiratory care practitioner certified under this chapter is employed in the treatment, management, diagnostic testing, rehabilitation, and care of patients with deficiencies and abnormalities which affect the cardiopulmonary system and associated aspects of other systems, and is under the direct order and under the qualified medical direction of a physician. The practice of respiratory care includes, but is not limited to:

- (1) The use and administration of medical gases, exclusive of general anesthesia;
- (2) The use of air and oxygen administering apparatus;
- (3) The use of humidification and aerosols;
- (4) The administration of prescribed pharmacologic agents related to respiratory care;
- (5) The use of mechanical or physiological ventilatory support;
- (6) Postural drainage, chest percussion, and vibration;
- (7) Bronchopulmonary hygiene;
- (8) Cardiopulmonary resuscitation as it pertains to establishing airways and external cardiac compression;
- (9) The maintenance of natural and artificial airways and insertion, without cutting tissues, of artificial airways, as ordered by the attending physician;
- (10) Diagnostic and monitoring techniques such as the measurement of cardiorespiratory volumes, pressures, and flows; and
- (11) The drawing and analyzing of arterial, capillary, and mixed venous blood specimens as ordered by the attending physician or an advanced registered nurse practitioner as authorized by the ((~~board of~~)) nursing care quality assurance commission under chapter ((~~18.88~~)) 18.— RCW (sections 401 through 431 of this act).

**Sec. 717.** RCW 18.100.140 and 1987 c 447 s 16 are each amended to read as follows:

Nothing in this chapter shall authorize a director, officer, shareholder, agent or employee of a corporation organized under this chapter, or a corporation itself organized under this chapter, to do or perform any act which would be illegal, unethical or unauthorized conduct under the provisions of the following acts: (1) ~~((Medical disciplinary act))~~ Physicians and surgeons, chapter ~~((18.72))~~ 18.71 RCW; (2) anti-rebating act, chapter 19.68 RCW; (3) state bar act, chapter 2.48 RCW; (4) professional accounting act, chapter 18.04 RCW; (5) professional architects act, chapter 18.08 RCW; (6) professional auctioneers act, chapter 18.11 RCW; (7) cosmetologists, barbers, and manicurists, chapter 18.16 RCW; (8) boarding homes act, chapter 18.20 RCW; (9) ~~((podiatry))~~ podiatric medicine and surgery, chapter 18.22 RCW; (10) chiropractic act, chapter 18.25 RCW; (11) registration of contractors, chapter 18.27 RCW; (12) debt adjusting act, chapter 18.28 RCW; (13) dental hygienist act, chapter 18.29 RCW; (14) dentistry, chapter 18.32 RCW; (15) dispensing opticians, chapter 18.34 RCW; (16) naturopathic ~~((ætt))~~ physicians, chapter 18.36A RCW; (17) embalmers and funeral directors, chapter 18.39 RCW; (18) engineers and land surveyors, chapter 18.43 RCW; (19) escrow agents registration act, chapter 18.44 RCW; (20) maternity homes, chapter 18.46 RCW; (21) midwifery, chapter 18.50 RCW; (22) nursing homes, chapter 18.51 RCW; (23) optometry, chapter 18.53 RCW; (24) ~~((osteopathy))~~ osteopathic physicians and surgeons, chapter 18.57 RCW; (25) pharmacists, chapter 18.64 RCW; (26) physical therapy, chapter 18.74 RCW; (27) registered nurses, advanced registered nurse practitioners, and practical nurses, chapter ~~((18.78))~~ 18.— RCW (sections 401 through 431 of this act); (28) psychologists, chapter 18.83 RCW; (29) real estate brokers and salesmen, chapter 18.85 RCW; (30) ~~((registered professional nurses, chapter 18.88 RCW; (31)))~~ veterinarians, chapter 18.92 RCW.

**Sec. 718.** RCW 18.120.020 and 1989 c 300 s 14 are each amended to read as follows:

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

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

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

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from

meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: (~~Podiatry~~) Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter ~~(§)~~ 18.25 (~~and 18.26 RCW~~); dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; dispensing opticians under chapter 18.34 RCW; hearing aids under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW; midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathy and osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71(~~§~~) and 18.71A(~~and 18.72~~) RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter ~~(18.78)~~ 18.— RCW (sections 401 through 431 of this act); psychologists under chapter 18.83 RCW; registered nurses under chapter ~~(18.88)~~ 18.— RCW (sections 401 through 431 of this act); occupational therapists licensed (~~pursuant to~~) under chapter 18.59 RCW; respiratory care practitioners certified under chapter 18.89 RCW; veterinarians and animal technicians under chapter 18.92 RCW; health care assistants under chapter 18.135 RCW; massage practitioners under chapter 18.108 RCW; acupuncturists certified under chapter 18.06 RCW; persons registered or certified under chapter 18.19 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; and nursing assistants registered or certified under chapter 18.88A RCW.

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

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

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

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

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

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

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

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

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

**Sec. 719.** RCW 18.135.020 and 1991 c 3 s 272 are each amended to read as follows:

As used in this chapter:

(1) "Secretary" means the secretary of health.

(2) "Health care assistant" means an unlicensed person who assists a licensed health care practitioner in providing health care to patients pursuant to this chapter.

(3) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

or

(c) Acting within the scope of their respective licensure, a ~~((podiatrist))~~ podiatric physician and surgeon licensed under chapter 18.22 RCW or a registered nurse or advanced registered nurse practitioner licensed under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act).

(4) "Supervision" means supervision of procedures permitted pursuant to this chapter by a health care practitioner who is physically present and is immediately available in the facility during the administration of injections, as defined in this chapter, but need not be present during procedures to withdraw blood.

(5) "Health care facility" means any hospital, hospice care center, licensed or certified health care facility, health maintenance organization regulated under chapter 48.46 RCW, federally qualified health maintenance organization, renal dialysis center or facility federally approved under 42 C.F.R. 405.2100, blood bank federally licensed under 21 C.F.R. 607, or clinical laboratory certified under 20 C.F.R. 405.1301-16.

(6) "Delegation" means direct authorization granted by a licensed health care practitioner to a health care assistant to perform the functions authorized in this

chapter which fall within the scope of practice of the delegator and which are not within the scope of practice of the delegatee.

**Sec. 720.** RCW 28A.210.260 and 1982 c 195 s 1 are each amended to read as follows:

Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(1) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications to students, the acquisition of parent requests and instructions, and the acquisition of dentist and physician requests and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication;

(2) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(3) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(4) The public school district or the private school is in receipt of (a) a written, current and unexpired request from a licensed physician or dentist for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials, and (b) written, current and unexpired instructions from such physician or dentist regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive work days;

(5) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to subsection (1) of this section and in substantial compliance with the prescription of a physician or dentist or the written instructions provided pursuant to subsection (4) of this section;

(6) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; and

(7) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 RCW or ~~((18.88))~~ chapter 18.— RCW (sections 401 through 431 of this act) as it applies to registered nurses and advanced registered nurse practitioners, to train and supervise the designated school district personnel in proper medication procedures.

Sec. 721. RCW 28A.210.280 and 1988 c 48 s 2 are each amended to read as follows:

(1) Public school districts and private schools that offer classes for any of grades kindergarten through twelve may provide for clean, intermittent bladder catheterization of students, or assisted self-catheterization of students pursuant to ~~((RCW 18.88.295: PROVIDED, That))~~ section 429 of this act, if the catheterization is provided for in substantial compliance with:

(a) Rules adopted by the state ~~((board of))~~ nursing care quality assurance commission and the instructions of a registered nurse or advanced registered nurse practitioner issued under such rules; and

(b) Written policies of the school district or private school which shall be adopted in order to implement this section and shall be developed in accordance with such requirements of chapters 41.56 and 41.59 RCW as may be applicable.

(2) This section does not require school districts to provide intermittent bladder catheterization of students.

Sec. 722. RCW 28A.210.290 and 1990 c 33 s 209 are each amended to read as follows:

(1) In the event a school employee provides for the catheterization of a student pursuant to RCW ~~((18.88.295))~~ 18.—.— (section 429 of this act) and 28A.210.280 in substantial compliance with (a) rules adopted by the state ~~((board of))~~ nursing care quality assurance commission and the instructions of a registered nurse or advanced registered nurse practitioner issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to RCW ~~((18.88.295))~~ 18.—.— (section 429 of this act) and 28A.210.280 may be discontinued by a public school district or private school and the school district or school, its employees, its chief administrator, and members of its governing board shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of the discontinuance: PROVIDED, That the chief administrator of the public school district or private school, or his or her designee, has first provided actual notice orally or in writing in advance of the date of discontinuance to a parent or legal guardian of the student or other person having legal control over the student: PROVIDED FURTHER, That the public school district otherwise provides for the catheterization of the student to the extent required by federal or state law.

Sec. 723. RCW 28C.10.030 and 1990 c 188 s 6 are each amended to read as follows:

This chapter does not apply to:

(1) Bona fide trade, business, professional, or fraternal organizations sponsoring educational programs primarily for that organization's membership or offered by that organization on a no-fee basis;

(2) Entities offering education that is exclusively avocational or recreational;

(3) Education not requiring payment of money or other consideration if this education is not advertised or promoted as leading toward educational credentials;

(4) Entities that are established, operated, and governed by this state or its political subdivisions under Title 28A, 28B, or 28C RCW;

(5) Degree-granting programs in compliance with the rules of the higher education coordinating board;

(6) Any other entity to the extent that it has been exempted from some or all of the provisions of this chapter under RCW 28C.10.100;

(7) Entities not otherwise exempt that are of a religious character, but only as to those educational programs exclusively devoted to religious or theological objectives and represented accurately in institutional catalogs or other official publications;

(8) Entities offering only courses certified by the federal aviation administration;

(9) Barber and cosmetology schools licensed under chapter 18.16 RCW;

(10) Entities which only offer courses approved to meet the continuing education requirements for licensure under chapter ~~((§))~~ 18.04, ~~((18.78, 18.88))~~ 18.— (sections 401 through 431 of this act), or 48.17 RCW; and

(11) Entities not otherwise exempt offering only workshops or seminars lasting no longer than three calendar days.

**Sec. 724.** RCW 41.05.075 and 1993 c 386 s 10 are each amended to read as follows:

(1) The administrator shall provide benefit plans designed by the board through a contract or contracts with insuring entities, through self-funding, self-insurance, or other methods of providing insurance coverage authorized by RCW 41.05.140.

(2) The administrator shall establish a contract bidding process that encourages competition among insuring entities, is timely to the state budgetary process, and sets conditions for awarding contracts to any insuring entity.

(3) The administrator shall establish a requirement for review of utilization and financial data from participating insuring entities on a quarterly basis.

(4) The administrator shall centralize the enrollment files for all employee and retired or disabled school employee health plans offered under chapter 41.05 RCW and develop enrollment demographics on a plan-specific basis.

(5) The administrator shall establish methods for collecting, analyzing, and disseminating to covered individuals information on the cost and quality of services rendered by individual health care providers.

(6) All claims data shall be the property of the state. The administrator may require of any insuring entity that submits a bid to contract for coverage all

information deemed necessary to fulfill the administrator's duties as set forth in this chapter.

(7) All contracts with insuring entities for the provision of health care benefits shall provide that the beneficiaries of such benefit plans may use on an equal participation basis the services of practitioners licensed pursuant to chapters 18.22, 18.25, 18.32, 18.53, 18.57, 18.71, 18.74, 18.83, and ~~((18.88 RCW))~~ 18.—RCW (sections 401 through 431 of this act), as it applies to registered nurses and advanced registered nurse practitioners. However, nothing in this subsection may preclude the administrator from establishing appropriate utilization controls approved pursuant to RCW 41.05.065(2) (a)~~((+))~~, (b), and (d).

(8) Beginning in January 1990, and each January thereafter, the administrator shall publish and distribute to each school district a description of health care benefit plans available through the authority and the estimated cost if school district employees were enrolled.

**Sec. 725.** RCW 41.05.180 and 1989 c 338 s 5 are each amended to read as follows:

Each health plan offered to public employees and their covered dependents under this chapter that is not subject to the provisions of Title 48 RCW and is established or renewed after January 1, 1990, and that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the ~~((board of))~~ nursing care quality assurance commission pursuant to chapter ~~((18.88))~~ 18.—RCW (sections 401 through 431 of this act) or physician~~((s))~~ assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard health plan provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of the state health care authority to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec. 726.** RCW 42.17.316 and 1987 c 416 s 7 are each amended to read as follows:

The disclosure requirements of this chapter shall not apply to records of the committee obtained in an action under RCW 18.72.301 through 18.72.321 (as recodified by this act).

**Sec. 727.** RCW 43.70.220 and 1989 1st ex.s. c 9 s 301 are each amended to read as follows:

The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, ~~((18.26))~~ 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, ~~((18.52A, 18.52B))~~



18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, ~~((18.72,))~~ 18.74, ~~((18.78,))~~ 18.83, 18.84, ~~((18.88))~~ 18.— (sections 401 through 431 of this act), 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health.

**Sec. 728.** RCW 48.20.393 and 1989 c 338 s 1 are each amended to read as follows:

Each disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the ~~((board of))~~ nursing care quality assurance commission pursuant to chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) or physician~~((s))~~ assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec. 729.** RCW 48.20.411 and 1973 1st ex.s. c 188 s 3 are each amended to read as follows:

Notwithstanding any provision of any disability insurance contract as provided for in this chapter, benefits shall not be denied thereunder for any health care service performed by a holder of a license for registered nursing practice or advanced registered nursing practice issued pursuant to chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section.

The provisions of this section are intended to be remedial and procedural to the extent they do not impair the obligation of any existing contract.

**Sec. 730.** RCW 48.21.141 and 1973 1st ex.s. c 188 s 4 are each amended to read as follows:

Notwithstanding any provision of any group disability insurance contract or blanket disability insurance contract as provided for in this chapter, benefits shall not be denied thereunder for any health service performed by a holder of a license for registered nursing practice or advanced registered nursing practice issued pursuant to chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) if (1) the service performed was within the lawful scope of such

person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section.

The provisions of this section are intended to be remedial and procedural to the extent they do not impair the obligation of any existing contract.

**Sec. 731.** RCW 48.21.225 and 1989 c 338 s 2 are each amended to read as follows:

Each group disability insurance policy issued or renewed after January 1, 1990, that provides coverage for hospital or medical expenses shall provide coverage for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the ~~((board of))~~ care quality assurance commission pursuant to chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) or physician~~((s))~~ assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard policy provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of an insurer to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec. 732.** RCW 48.44.026 and 1990 c 120 s 6 are each amended to read as follows:

Checks in payment for claims pursuant to any health care service contract for health care services provided by persons licensed or regulated under chapters ~~((18.22))~~ 18.25, 18.29, 18.32, 18.53, 18.57, 18.64, 18.71, 18.73, 18.74, 18.83, or ~~((18.88 RCW))~~ 18.— RCW (sections 401 through 431 of this act), as it applies to registered nurses and advanced registered nurse practitioners, where the provider is not a participating provider under a contract with the health care service contractor, shall be made out to both the provider and the enrolled participant with the provider as the first named payee, jointly, to require endorsement by each: PROVIDED, That payment shall be made in the single name of the enrolled participant if the enrolled participant as part of his or her claim furnishes evidence of prepayment to the health care service provider: AND PROVIDED FURTHER, That nothing in this section shall preclude a health care service contractor from voluntarily issuing payment in the single name of the provider.

**Sec. 733.** RCW 48.44.290 and 1986 c 223 s 6 are each amended to read as follows:

Notwithstanding any provision of this chapter, for any health care service contract thereunder which is entered into or renewed after July 26, 1981, benefits shall not be denied under such contract for any health care service performed by

a holder of a license for registered nursing practice or advanced registered nursing practice issued pursuant to chapter ((18.88)) 18.— RCW (sections 401 through 431 of this act) if (1) the service performed was within the lawful scope of such person's license, and (2) such contract would have provided benefits if such service had been performed by a holder of a license issued pursuant to chapter 18.71 RCW: PROVIDED, HOWEVER, That no provision of chapter 18.71 RCW shall be asserted to deny benefits under this section.

The provisions of this section are intended to be remedial and procedural to the extent that they do not impair the obligation of any existing contract.

**Sec. 734.** RCW 48.44.325 and 1989 c 338 s 3 are each amended to read as follows:

Each health care service contract issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the ((board of)) nursing care quality assurance commission pursuant to chapter ((18.88)) 18.— RCW (sections 401 through 431 of this act) or physician((s)) assistant pursuant to chapter 18.71A RCW.

This section shall not be construed to prevent the application of standard contract provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of a contractor to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec. 735.** RCW 48.46.275 and 1989 c 338 s 4 are each amended to read as follows:

Each health maintenance agreement issued or renewed after January 1, 1990, that provides benefits for hospital or medical care shall provide benefits for screening or diagnostic mammography services, provided that such services are delivered upon the recommendation of the patient's physician or advanced registered nurse practitioner as authorized by the ((board of)) nursing care quality assurance commission pursuant to chapter ((18.88)) 18.— RCW (sections 401 through 431 of this act) or physician((s)) assistant pursuant to chapter 18.71A RCW.

All services must be provided by the health maintenance organization or rendered upon referral by the health maintenance organization. This section shall not be construed to prevent the application of standard agreement provisions applicable to other benefits such as deductible or copayment provisions. This section does not limit the authority of a health maintenance organization to negotiate rates and contract with specific providers for the delivery of mammography services. This section shall not apply to medicare supplement policies or supplemental contracts covering a specified disease or other limited benefits.

**Sec. 736.** RCW 69.41.010 and 1989 1st ex.s. c 9 s 426 and 1989 c 36 s 3 are each reenacted and amended to read as follows:

As used in this chapter, the following terms (~~(has—have))~~ have the ~~((meaning(s))~~ meanings indicated unless the context clearly requires otherwise:

(1) "Administer" means the direct application of a legend drug whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner; or

(b) The patient or research subject at the direction of the practitioner.

(2) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a legend drug, whether or not there is an agency relationship.

(3) "Department" means the department of health.

(4) "Dispense" means the interpretation of a prescription or order for a legend drug and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(5) "Dispenser" means a practitioner who dispenses.

(6) "Distribute" means to deliver other than by administering or dispensing a legend drug.

(7) "Distributor" means a person who distributes.

(8) "Drug" means:

(a) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food, minerals or vitamins) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in clause (a), (b), or (c) of this subsection. It does not include devices or their components, parts, or accessories.

(9) "Legend drugs" means any drugs which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only.

(10) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(11) "Practitioner" means:

(a) A physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a ~~((podiatrist))~~ podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse ~~((under chapter 18.88 RCW, a)),~~ advanced registered nurse practitioner, or

licensed practical nurse under chapter ~~((18.78))~~ 18.— RCW (sections 401 through 431 of this act), an optometrist under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010, an osteopathic physician~~((s))~~ assistant under chapter 18.57A RCW, ~~((or))~~ a physician~~((s))~~ assistant under chapter 18.71A RCW, or a pharmacist under chapter 18.64 RCW;

(b) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a legend drug in the course of professional practice or research in this state; and

(c) A physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery in any state, or province of Canada, which shares a common border with the state of Washington.

(12) "Secretary" means the secretary of health or the secretary's designee.

**Sec. 737.** RCW 69.41.030 and 1991 c 30 s 1 are each amended to read as follows:

It shall be unlawful for any person to sell, deliver, or possess any legend drug except upon the order or prescription of a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a commissioned medical or dental officer in the United States armed forces or public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) when authorized by the ~~((board of))~~ nursing care quality assurance commission, an osteopathic physician~~((s))~~ assistant under chapter 18.57A RCW when authorized by the ~~((committee))~~ board of osteopathic examiners, a physician assistant under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical ~~((examiners))~~ quality assurance commission, a physician licensed to practice medicine and surgery or a physician licensed to practice osteopathy and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine, in any province of Canada which shares a common border with the state of Washington or in any state of the United States: PROVIDED, HOWEVER, That the above provisions shall not apply to sale, delivery, or possession by drug wholesalers or drug manufacturers, or their agents or employees, or to any practitioner acting within the scope of his or her license, or to a common or contract carrier or warehouseman, or any employee thereof, whose possession of any legend drug is in the usual course of business or employment: PROVIDED FURTHER, That nothing in this chapter or chapter 18.64 RCW shall prevent a family planning clinic that is under contract with the department of social and health services from selling, delivering, possessing, and

dispensing commercially prepackaged oral contraceptives prescribed by authorized, licensed health care practitioners.

**Sec. 738.** RCW 69.45.010 and 1989 1st ex.s. c 9 s 444 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

- (1) "Board" means the board of pharmacy.
- (2) "Drug samples" means any federal food and drug administration approved controlled substance, legend drug, or products requiring prescriptions in this state, which is distributed at no charge to a practitioner by a manufacturer or a manufacturer's representative, exclusive of drugs under clinical investigations approved by the federal food and drug administration.
- (3) "Controlled substance" means a drug, substance, or immediate precursor of such drug or substance, so designated under or pursuant to chapter 69.50 RCW, the uniform controlled substances act.
- (4) "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a drug or device, whether or not there is an agency relationship.
- (5) "Dispense" means the interpretation of a prescription or order for a drug, biological, or device and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.
- (6) "Distribute" means to deliver, other than by administering or dispensing, a legend drug.
- (7) "Legend drug" means any drug that is required by state law or by regulations of the board to be dispensed on prescription only or is restricted to use by practitioners only.
- (8) "Manufacturer" means a person or other entity engaged in the manufacture or distribution of drugs or devices, but does not include a manufacturer's representative.
- (9) "Person" means any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, or any other legal entity.
- (10) "Practitioner" means a physician under chapter 18.71 RCW, an osteopathic physician or an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a ~~((podiatrist))~~ podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a pharmacist under chapter 18.64 RCW, a commissioned medical or dental officer in the United States armed forces or the public health service in the discharge of his or her official duties, a duly licensed physician or dentist employed by the veterans administration in the discharge of his or her official duties, a registered nurse or advanced registered nurse practitioner under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) when authorized to prescribe by the ~~((board of))~~ nursing care quality assurance commission, an osteopathic ~~((physician's))~~ physician assistant under chapter 18.57A RCW when

authorized by the board of osteopathic medicine and surgery, or a ~~((physician's))~~ physician assistant under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical ((examiners)) quality assurance commission.

(11) "Manufacturer's representative" means an agent or employee of a drug manufacturer who is authorized by the drug manufacturer to possess drug samples for the purpose of distribution in this state to appropriately authorized health care practitioners.

(12) "Reasonable cause" means a state of facts found to exist that would warrant a reasonably intelligent and prudent person to believe that a person has violated state or federal drug laws or regulations.

(13) "Department" means the department of health.

(14) "Secretary" means the secretary of health or the secretary's designee.

**Sec. 739.** RCW 69.50.101 and 1993 c 187 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Board" means the state board of pharmacy.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or board rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Immediate precursor" means a substance:

(1) that the state board of pharmacy has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(o) "Isomer" means an optical isomer, but in RCW 69.50.101(r)(5), 69.50.204(a) (12) and (34), and 69.50.206(a)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the



term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(p) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(q) "Marijuana" or "marihuana" means all parts of the plant Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(r) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(s) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(t) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(u) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(v) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(w) "Practitioner" means:

(1) A physician under chapter 18.71 RCW, a physician assistant under chapter 18.71A RCW, an osteopathic physician and surgeon under chapter 18.57 RCW, a dentist under chapter 18.32 RCW, a podiatric physician and surgeon under chapter 18.22 RCW, a veterinarian under chapter 18.92 RCW, a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act), ((a licensed practical nurse under chapter 18.78 RCW,)) a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathy and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(x) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(y) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(z) "Secretary" means the secretary of health or the secretary's designee.

(aa) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(bb) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

**Sec. 740.** RCW 69.50.402 and 1980 c 138 s 6 are each amended to read as follows:

(a) It is unlawful for any person:

(1) who is subject to Article III to distribute or dispense a controlled substance in violation of RCW 69.50.308;

(2) who is a registrant, to manufacture a controlled substance not authorized by his registration, or to distribute or dispense a controlled substance not authorized by his registration to another registrant or other authorized person;

(3) who is a practitioner, to prescribe, order, dispense, administer, supply, or give to any person:

(i) any amphetamine, including its salts, optical isomers, and salts of optical isomers classified as a schedule II controlled substance by the board of pharmacy pursuant to chapter 34.05 RCW; or

(ii) any nonnarcotic stimulant classified as a schedule II controlled substance and designated as a nonnarcotic stimulant by the board of pharmacy pursuant to chapter 34.05 RCW;

except for the treatment of narcolepsy or for the treatment of hyperkinesia, or for the treatment of drug-induced brain dysfunction, or for the treatment of epilepsy, or for the differential diagnostic psychiatric evaluation of depression, or for the treatment of depression shown to be refractory to other therapeutic modalities, or for the clinical investigation of the effects of such drugs or compounds, in which case an investigative protocol therefor shall have been submitted to and reviewed and approved by the state board of pharmacy before the investigation has been begun: PROVIDED, That the board of pharmacy, in consultation with the medical (~~disciplinary board~~) quality assurance commission and the osteopathic disciplinary board, may establish by rule, pursuant to chapter 34.05 RCW, disease states or conditions in addition to those listed in this subsection for the treatment of which Schedule II nonnarcotic stimulants may be prescribed, ordered, dispensed, administered, supplied, or given to patients by practitioners: AND PROVIDED, FURTHER, That investigations by the board of pharmacy of abuse of prescriptive authority by physicians, licensed pursuant to chapter 18.71 RCW, pursuant to subsection (a)(3) of this section shall be done in consultation with the medical (~~disciplinary board~~) quality assurance commission;

(4) to refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice, or information required under this chapter;

(5) to refuse an entry into any premises for any inspection authorized by this chapter; or

(6) knowingly to keep or maintain any store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place, which is resorted to by persons using controlled substances in violation of this chapter for the purpose of using these substances, or which is used for keeping or selling them in violation of this chapter.

(b) Any person who violates this section is guilty of a crime and upon conviction may be imprisoned for not more than two years, fined not more than two thousand dollars, or both.

**Sec. 741.** RCW 70.02.030 and 1993 c 448 s 3 are each amended to read as follows:

(1) A patient may authorize a health care provider to disclose the patient's health care information. A health care provider shall honor an authorization and, if requested, provide a copy of the recorded health care information unless the health care provider denies the patient access to health care information under RCW 70.02.090.

(2) A health care provider may charge a reasonable fee for providing the health care information and is not required to honor an authorization until the fee is paid.

(3) To be valid, a disclosure authorization to a health care provider shall:

(a) Be in writing, dated, and signed by the patient;

(b) Identify the nature of the information to be disclosed;

(c) Identify the name, address, and institutional affiliation of the person to whom the information is to be disclosed;

(d) Except for third-party payors, identify the provider who is to make the disclosure; and

(e) Identify the patient.

(4) Except as provided by this chapter, the signing of an authorization by a patient is not a waiver of any rights a patient has under other statutes, the rules of evidence, or common law.

(5) A health care provider shall retain each authorization or revocation in conjunction with any health care information from which disclosures are made. This requirement shall not apply to disclosures to third-party payors.

(6) Except for authorizations given pursuant to an agreement with a treatment or monitoring program or disciplinary authority under chapter ~~((18.72))~~ 18.71 or 18.130 RCW or to provide information to third-party payors, an authorization may not permit the release of health care information relating to future health care that the patient receives more than ninety days after the authorization was signed. Patients shall be advised of the period of validity of their authorization on the disclosure authorization form. If the authorization does not contain an expiration date, it expires ninety days after it is signed.

**Sec. 742.** RCW 70.41.200 and 1993 c 492 s 415 are each amended to read as follows:

(1) Every hospital shall maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice. The program shall include at least the following:

(a) The establishment of a quality improvement committee with the responsibility to review the services rendered in the hospital, both retrospectively and prospectively, in order to improve the quality of medical care of patients and to prevent medical malpractice. The committee shall oversee and coordinate the quality improvement and medical malpractice prevention program and shall insure that information gathered pursuant to the program is used to review and to revise hospital policies and procedures;

(b) A medical staff privileges sanction procedure through which credentials, physical and mental capacity, and competence in delivering health care services are periodically reviewed as part of an evaluation of staff privileges;

(c) The periodic review of the credentials, physical and mental capacity, and competence in delivering health care services of all persons who are employed or associated with the hospital;

(d) A procedure for the prompt resolution of grievances by patients or their representatives related to accidents, injuries, treatment, and other events that may result in claims of medical malpractice;

(e) The maintenance and continuous collection of information concerning the hospital's experience with negative health care outcomes and incidents injurious to patients, patient grievances, professional liability premiums, settlements, awards, costs incurred by the hospital for patient injury prevention, and safety improvement activities;

(f) The maintenance of relevant and appropriate information gathered pursuant to (a) through (e) of this subsection concerning individual physicians within the physician's personnel or credential file maintained by the hospital;

(g) Education programs dealing with quality improvement, patient safety, injury prevention, staff responsibility to report professional misconduct, the legal aspects of patient care, improved communication with patients, and causes of malpractice claims for staff personnel engaged in patient care activities; and

(h) Policies to ensure compliance with the reporting requirements of this section.

(2) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(3) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil

action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(4) Each quality improvement committee shall, on at least a semiannual basis, report to the governing board of the hospital in which the committee is located. The report shall review the quality improvement activities conducted by the committee, and any actions taken as a result of those activities.

(5) The department of health shall adopt such rules as are deemed appropriate to effectuate the purposes of this section.

(6) The medical (~~disciplinary board~~) quality assurance commission or the board of osteopathic medicine and surgery, as appropriate, may review and audit the records of committee decisions in which a physician's privileges are terminated or restricted. Each hospital shall produce and make accessible to the commission or board the appropriate records and otherwise facilitate the review and audit. Information so gained shall not be subject to the discovery process and confidentiality shall be respected as required by subsection (3) of this section. Failure of a hospital to comply with this subsection is punishable by a civil penalty not to exceed two hundred fifty dollars.

(7) Violation of this section shall not be considered negligence per se.

**Sec. 743.** RCW 70.41.210 and 1986 c 300 s 7 are each amended to read as follows:

The chief administrator or executive officer of a hospital shall report to the (~~board~~) medical quality assurance commission when a physician's clinical privileges are terminated or are restricted based on a determination, in accordance with an institution's bylaws, that a physician has either committed an act or acts which may constitute unprofessional conduct. The officer shall also report if a physician accepts voluntary termination in order to foreclose or terminate actual or possible hospital action to suspend, restrict, or terminate a

physician's clinical privileges. Such a report shall be made within sixty days of the date action was taken by the hospital's peer review committee or the physician's acceptance of voluntary termination or restriction of privileges. Failure of a hospital to comply with this section is punishable by a civil penalty not to exceed two hundred fifty dollars.

**Sec. 744.** RCW 70.41.230 and 1993 c 492 s 416 are each amended to read as follows:

(1) Prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice;

(b) If such association, employment, privilege, or practice was discontinued, the reasons for its discontinuation;

(c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;

(d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;

(e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and

(f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, the following information concerning the physician:

(a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;

(b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and

(c) Any information required to be reported by hospitals pursuant to RCW 18.72.265 (as recodified by this act).

(3) The medical ~~((disciplinary board))~~ quality assurance commission shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

(4) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) and (2) of this section shall

provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

(5) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

(6) Hospitals shall be granted access to information held by the medical ~~((disciplinary board))~~ quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

(7) Violation of this section shall not be considered negligence per se.

**Sec. 745.** RCW 70.127.250 and 1993 c 42 s 10 are each amended to read as follows:

(1) In addition to the rules consistent with RCW 70.127.005 adopted under RCW 70.127.120, the department shall adopt rules for home health agencies which address the following:

(a) Establishment of case management guidelines for acute and maintenance care patients;

(b) Establishment of guidelines for periodic review of the home health care plan of care and plan of treatment by appropriate health care professionals; and



(c) Maintenance of written policies regarding the delivery and supervision of patient care and clinical consultation as necessary by appropriate health care professionals.

(2) As used in this section:

(a) "Acute care" means care provided by a home health agency for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional in order to maintain their health status.

(b) "Maintenance care" means care provided by home health agencies that is necessary to support an existing level of health and to preserve a patient from further failure or decline.

(c) "Home health plan of care" means a written plan of care established by a home health agency by appropriate health care professionals that describes maintenance care to be provided. A patient or his or her representative shall be allowed to participate in the development of the plan of care to the extent practicable.

(d) "Home health plan of treatment" means a written plan of care established by a physician licensed under chapter 18.57 or 18.71 RCW, a podiatric physician and surgeon licensed under chapter 18.22 RCW, or an advanced registered nurse practitioner as authorized by the ~~((board of))~~ nursing care quality assurance commission under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act), in consultation with appropriate health care professionals within the agency that describes medically necessary acute care to be provided for treatment of illness or injury.

**Sec. 746.** RCW 70.180.030 and 1990 c 271 s 3 are each amended to read as follows:

(1) The department, in cooperation with ~~((the))~~ the University of Washington school of medicine, the state's registered nursing programs, the state's pharmacy programs, and other appropriate public and private agencies and associations, shall develop and keep current a register of physicians, physician assistants, pharmacists, and advanced registered nurse practitioners who are available to practice on a short-term basis in rural communities of the state. The department shall periodically screen individuals on the registry for violations of the Uniform Disciplinary Act as authorized in chapter 18.130 RCW. If a finding of unprofessional conduct has been made by the appropriate disciplinary authority against any individual on the registry, the name of that individual shall be removed from the registry and that person shall be made ineligible for the program. The department shall include a list of back-up physicians and hospitals who can provide support to health care providers in the pool. The register shall be compiled, published, and made available to all rural hospitals, public health departments and districts, rural pharmacies, and other appropriate public and private agencies and associations. The department shall coordinate with existing entities involved in health professional recruitment when developing the registry for the health professional temporary substitute resource pool.

(2) Eligible health care professionals are those licensed under chapters 18.57, 18.57A, 18.64, 18.71, and 18.71A RCW and advanced registered nurse practitioners licensed under chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act).

(3) Participating health care professionals shall receive:

(a) Reimbursement for travel to and from the rural community and for lodging at a rate determined under RCW 43.03.050 and 43.03.060;

(b) Medical malpractice insurance purchased by the department, or the department may reimburse participants for medical malpractice insurance premium costs for medical liability while providing health care services in the program, if the services provided are not covered by the participant's or local provider's existing medical malpractice insurance; and

(c) Information on back-up support from other physicians and hospitals in the area to the extent necessary and available.

(4) The department may require rural communities to participate in health professional recruitment programs as a condition for providing a temporary substitute health care professional if the community does not have adequate permanent health care personnel. To the extent deemed appropriate and subject to funding, the department may also require communities to participate in other programs or projects, such as the rural health system project authorized in chapter 70.175 RCW, that are designed to assist communities to reorganize the delivery of rural health care services.

(5) The department may require a community match for assistance provided in subsection (3) of this section if it determines that adequate community resources exist.

(6) The maximum continuous period of time a participating health professional may serve in a community is ninety days. The department may modify or waive this limitation should it determine that the health and safety of the community warrants a waiver or modification. The community shall be responsible for all salary expenses of participating health professionals.

**Sec. 747.** RCW 71.05.210 and 1991 c 364 s 11 and 1991 c 105 s 4 are each reenacted and amended to read as follows:

Each person involuntarily admitted to an evaluation and treatment facility shall, within twenty-four hours of his or her admission, be examined and evaluated by a licensed physician who may be assisted by a physician assistant according to chapter 18.71A RCW or ~~((#))~~ an advanced registered nurse practitioner according to chapter ~~((18.88))~~ 18.— RCW (sections 401 through 431 of this act) and a mental health professional as defined in this chapter, and shall receive such treatment and care as his or her condition requires including treatment on an outpatient basis for the period that he or she is detained, except that, beginning twenty-four hours prior to a court proceeding, the individual may refuse all but emergency life-saving treatment, and the individual shall be informed at an appropriate time of his or her right to such refusal of treatment. Such person shall be detained up to seventy-two hours, if, in the opinion of the

professional person in charge of the facility, or his or her professional designee, the person presents a likelihood of serious harm to himself or herself or others, or is gravely disabled. A person who has been detained for seventy-two hours shall no later than the end of such period be released, unless referred for further care on a voluntary basis, or detained pursuant to court order for further treatment as provided in this chapter.

If, after examination and evaluation, the licensed physician and mental health professional determine that the initial needs of the person would be better served by placement in a chemical dependency treatment facility, then the person shall be referred to an approved treatment program defined under RCW 70.96A.020.

An evaluation and treatment center admitting any person pursuant to this chapter whose physical condition reveals the need for hospitalization shall assure that such person is transferred to an appropriate hospital for treatment. Notice of such fact shall be given to the court, the designated attorney, and the designated county mental health professional and the court shall order such continuance in proceedings under this chapter as may be necessary, but in no event may this continuance be more than fourteen days.

**Sec. 748.** RCW 71.24.025 and 1991 c 306 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) "Acutely mentally ill" means a condition which is limited to a short-term severe crisis episode of:

(a) A mental disorder as defined in RCW 71.05.020(2) or, in the case of a child, as defined in RCW 71.34.020(12);

(b) Being gravely disabled as defined in RCW 71.05.020(1) or, in the case of a child, as defined in RCW 71.34.020(8); or

(c) Presenting a likelihood of serious harm as defined in RCW 71.05.020(3) or, in the case of a child, as defined in RCW 71.34.020(11).

(2) "Available resources" means those funds which shall be appropriated under this chapter by the legislature during any biennium for the purpose of providing community mental health programs under RCW 71.24.045. When regional support networks are established or after July 1, 1995, "available resources" means federal funds, except those provided according to Title XIX of the Social Security Act, and state funds appropriated under this chapter or chapter 71.05 RCW by the legislature during any biennium for the purpose of providing residential services, resource management services, community support services, and other mental health services. This does not include funds appropriated for the purpose of operating and administering the state psychiatric hospitals, except as negotiated according to RCW 71.24.300(1)(d).

(3) "Licensed service provider" means an entity licensed according to this chapter or chapter 71.05 RCW that meets state minimum standards or individuals licensed under chapter 18.57, 18.71, 18.83, or ~~((18.88 RCW))~~ 18.— RCW

(sections 401 through 431 of this act), as it applies to registered nurses and advanced registered nurse practitioners.

(4) "Child" means a person under the age of eighteen years.

(5) "Chronically mentally ill adult" means an adult who has a mental disorder and meets at least one of the following criteria:

(a) Has undergone two or more episodes of hospital care for a mental disorder within the preceding two years; or

(b) Has experienced a continuous psychiatric hospitalization or residential treatment exceeding six months' duration within the preceding year; or

(c) Has been unable to engage in any substantial gainful activity by reason of any mental disorder which has lasted for a continuous period of not less than twelve months. "Substantial gainful activity" shall be defined by the department by rule consistent with Public Law 92-603, as amended.

(6) "Severely emotionally disturbed child" means an infant or child who has been determined by the regional support network to be experiencing a mental disorder as defined in chapter 71.34 RCW, including those mental disorders that result in a behavioral or conduct disorder, that is clearly interfering with the child's functioning in family or school or with peers and who meets at least one of the following criteria:

(a) Has undergone inpatient treatment or placement outside of the home related to a mental disorder within the last two years;

(b) Has undergone involuntary treatment under chapter 71.34 RCW within the last two years;

(c) Is currently served by at least one of the following child-serving systems: Juvenile justice, child-protection/welfare, special education, or developmental disabilities;

(d) Is at risk of escalating maladjustment due to:

(i) Chronic family dysfunction involving a mentally ill or inadequate caretaker;

(ii) Changes in custodial adult;

(iii) Going to, residing in, or returning from any placement outside of the home, for example, psychiatric hospital, short-term inpatient, residential treatment, group or foster home, or a correctional facility;

(iv) Subject to repeated physical abuse or neglect;

(v) Drug or alcohol abuse; or

(vi) Homelessness.

(7) "Community mental health program" means all mental health services established by a county authority. After July 1, 1995, or when the regional support networks are established, "community mental health program" means all activities or programs using available resources.

(8) "Community support services" means services for acutely mentally ill persons, chronically mentally ill adults, and severely emotionally disturbed children and includes: (a) Discharge planning for clients leaving state mental hospitals, other acute care inpatient facilities, inpatient psychiatric facilities for

persons under twenty-one years of age, and other children's mental health residential treatment facilities; (b) sufficient contacts with clients, families, schools, or significant others to provide for an effective program of community maintenance; and (c) medication monitoring. After July 1, 1995, or when regional support networks are established, for adults and children "community support services" means services authorized, planned, and coordinated through resource management services including, at least, assessment, diagnosis, emergency crisis intervention available twenty-four hours, seven days a week, prescreening determinations for mentally ill persons being considered for placement in nursing homes as required by federal law, screening for patients being considered for admission to residential services, diagnosis and treatment for acutely mentally ill and severely emotionally disturbed children discovered under screening through the federal Title XIX early and periodic screening, diagnosis, and treatment program, investigation, legal, and other nonresidential services under chapter 71.05 RCW, case management services, psychiatric treatment including medication supervision, counseling, psychotherapy, assuring transfer of relevant patient information between service providers, other services determined by regional support networks, and maintenance of a patient tracking system for chronically mentally ill adults and severely emotionally disturbed children.

(9) "County authority" means the board of county commissioners, county council, or county executive having authority to establish a community mental health program, or two or more of the county authorities specified in this subsection which have entered into an agreement to provide a community mental health program.

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

(11) "Mental health services" means community services pursuant to RCW 71.24.035(5)(b) and other services provided by the state for the mentally ill. When regional support networks are established, or after July 1, 1995, "mental health services" shall include all services provided by regional support networks.

(12) "Mentally ill persons" and "the mentally ill" mean persons and conditions defined in subsections (1), (5), (6), and (16) of this section.

(13) "Regional support network" means a county authority or group of county authorities recognized by the secretary that enter into joint operating agreements to contract with the secretary pursuant to this chapter.

(14) "Residential services" means a facility or distinct part thereof which provides food and shelter, and may include treatment services.

When regional support networks are established, or after July 1, 1995, for adults and children "residential services" means a complete range of residences and supports authorized by resource management services and which may involve a facility, a distinct part thereof, or services which support community living, for acutely mentally ill persons, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network to be at risk of becoming acutely or chronically

mentally ill. The services shall include at least evaluation and treatment services as defined in chapter 71.05 RCW, acute crisis respite care, long-term adaptive and rehabilitative care, and supervised and supported living services, and shall also include any residential services developed to service mentally ill persons in nursing homes. Residential services for children in out-of-home placements related to their mental disorder shall not include the costs of food and shelter, except for children's long-term residential facilities existing prior to January 1, 1991.

(15) "Resource management services" mean the planning, coordination, and authorization of residential services and community support services administered pursuant to an individual service plan for acutely mentally ill adults and children, chronically mentally ill adults, severely emotionally disturbed children, or seriously disturbed adults determined by the regional support network at their sole discretion to be at risk of becoming acutely or chronically mentally ill. Such planning, coordination, and authorization shall include mental health screening for children eligible under the federal Title XIX early and periodic screening, diagnosis, and treatment program. Resource management services include seven day a week, twenty-four hour a day availability of information regarding mentally ill adults' and children's enrollment in services and their individual service plan to county-designated mental health professionals, evaluation and treatment facilities, and others as determined by the regional support network.

(16) "Seriously disturbed person" means a person who:

(a) Is gravely disabled or presents a likelihood of serious harm to oneself or others as a result of a mental disorder as defined in chapter 71.05 RCW;

(b) Has been on conditional release status at some time during the preceding two years from an evaluation and treatment facility or a state mental health hospital;

(c) Has a mental disorder which causes major impairment in several areas of daily living;

(d) Exhibits suicidal preoccupation or attempts; or

(e) Is a child diagnosed by a mental health professional, as defined in RCW 71.05.020, as experiencing a mental disorder which is clearly interfering with the child's functioning in family or school or with peers or is clearly interfering with the child's personality development and learning.

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

(18) "State minimum standards" means: (a) Minimum requirements for delivery of mental health services as established by departmental rules and necessary to implement this chapter, including but not limited to licensing service providers and services; (b) minimum service requirements for licensed service providers for the provision of mental health services as established by departmental rules pursuant to chapter 34.05 RCW as necessary to implement this chapter, including, but not limited to: Qualifications for staff providing services directly to mentally ill persons; the intended result of each service; and the rights and

responsibilities of persons receiving mental health services pursuant to this chapter; (c) minimum requirements for residential services as established by the department in rule based on clients' functional abilities and not solely on their diagnoses, limited to health and safety, staff qualifications, and program outcomes. Minimum requirements for residential services are those developed in collaboration with consumers, families, counties, regulators, and residential providers serving the mentally ill. Minimum requirements encourage the development of broad-range residential programs, including integrated housing and cross-systems programs where appropriate, and do not unnecessarily restrict programming flexibility; and (d) minimum standards for community support services and resource management services, including at least qualifications for resource management services, client tracking systems, and the transfer of patient information between service providers.

**Sec. 749.** RCW 74.09.290 and 1990 c 100 s 5 are each amended to read as follows:

The secretary of the department of social and health services or his authorized representative shall have the authority to:

(1) Conduct audits and investigations of providers of medical and other services furnished pursuant to this chapter, except that the Washington state medical (~~disciplinary board~~) quality assurance commission shall generally serve in an advisory capacity to the secretary in the conduct of audits or investigations of physicians. Any overpayment discovered as a result of an audit of a provider under this authority shall be offset by any underpayments discovered in that same audit sample. In order to determine the provider's actual, usual, customary, or prevailing charges, the secretary may examine such random representative records as necessary to show accounts billed and accounts received except that in the conduct of such examinations, patient names, other than public assistance applicants or recipients, shall not be noted, copied, or otherwise made available to the department. In order to verify costs incurred by the department for treatment of public assistance applicants or recipients, the secretary may examine patient records or portions thereof in connection with services to such applicants or recipients rendered by a health care provider, notwithstanding the provisions of RCW 5.60.060, 18.53.200, 18.83.110, or any other statute which may make or purport to make such records privileged or confidential: PROVIDED, That no original patient records shall be removed from the premises of the health care provider, and that the disclosure of any records or information by the department of social and health services is prohibited and shall be punishable as a class C felony according to chapter 9A.20 RCW, unless such disclosure is directly connected to the official purpose for which the records or information were obtained: PROVIDED FURTHER, That the disclosure of patient information as required under this section shall not subject any physician or other health services provider to any liability for breach of any confidential relationship between the provider and the patient, but no evidence resulting from such disclosure may be used in any civil, administrative, or criminal proceeding

against the patient unless a waiver of the applicable evidentiary privilege is obtained: PROVIDED FURTHER, That the secretary shall destroy all copies of patient medical records in their possession upon completion of the audit, investigation or proceedings;

(2) Approve or deny applications to participate as a provider of services furnished pursuant to this chapter;

(3) Terminate or suspend eligibility to participate as a provider of services furnished pursuant to this chapter; and

(4) Adopt, promulgate, amend, and (~~repeal~~) repeal administrative rules (~~and regulations~~), in accordance with the Administrative Procedure Act, chapter 34.05 RCW, to carry out the policies and purposes of RCW 74.09.200 through 74.09.290.

**Sec. 750.** RCW 74.42.010 and 1993 c 508 s 4 are each amended to read as follows:

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

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

(2) "Facility" refers to a nursing home as defined in RCW 18.51.010.

(3) "Licensed practical nurse" means a person licensed to practice practical nursing under chapter (~~18.78~~) 18.— RCW (sections 401 through 431 of this act).

(4) "Medicaid" means Title XIX of the Social Security Act enacted by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79 Stat. 343), as amended.

(5) "Nursing care" means that care provided by a registered nurse, an advanced registered nurse practitioner, a licensed practical nurse, or a nursing assistant in the regular performance of their duties.

(6) "Qualified therapist" means:

(a) An activities specialist who has specialized education, training, or experience specified by the department.

(b) An audiologist who is eligible for a certificate of clinical competence in audiology or who has the equivalent education and clinical experience.

(c) A mental health professional as defined in chapter 71.05 RCW.

(d) A mental retardation professional who is a qualified therapist or a therapist approved by the department and has specialized training or one year experience in treating or working with the mentally retarded or developmentally disabled.

(e) An occupational therapist who is a graduate of a program in occupational therapy or who has equivalent education or training.

(f) A physical therapist as defined in chapter 18.74 RCW.

(g) A social worker who is a graduate of a school of social work.



(h) A speech pathologist who is eligible for a certificate of clinical competence in speech pathology or who has equivalent education and clinical experience.

(7) "Registered nurse" means a person (~~(practicing)~~) licensed to practice registered nursing under chapter ~~((18.88)) 18.— RCW (sections 401 through 431 of this act).~~

(8) "Resident" means an individual residing in a nursing home, as defined in RCW 18.51.010.

(9) "Physician(~~'s~~) assistant" means a person practicing pursuant to chapters 18.57A and 18.71A RCW.

(10) "Nurse practitioner" means a person (~~((practicing such expanded acts of nursing as are authorized by the board of nursing pursuant to RCW 18.88.030))~~) licensed to practice advanced registered nursing under chapter 18.— RCW (sections 401 through 431 of this act).

**Sec. 751.** RCW 74.42.230 and 1982 c 120 s 2 are each amended to read as follows:

(1) The resident's attending or staff physician or authorized practitioner approved by the attending physician shall order all medications for the resident. The order may be oral or written and shall be limited by time. An "authorized practitioner," as used in this section, is a registered nurse under chapter ~~((18.88)) 18.— RCW (sections 401 through 431 of this act)~~ when authorized by the ~~((board of))~~ nursing care quality assurance commission, an osteopathic physician(~~'s~~) assistant under chapter 18.57A RCW when authorized by the committee of osteopathic examiners, or a physician(~~'s~~) assistant under chapter 18.71A RCW when authorized by the ~~((board of))~~ medical ~~((examiners))~~ quality assurance commission.

(2) An oral order shall be given only to a licensed nurse, pharmacist, or another physician. The oral order shall be recorded and signed immediately by the person receiving the order. The attending physician shall sign the record of the oral order in a manner consistent with good medical practice.

**Sec. 752.** RCW 74.42.240 and 1989 c 372 s 5 are each amended to read as follows:

(1) No staff member may administer any medication to a resident unless the staff member is licensed to administer medication: PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses or student nurses from administering medications when permitted to do so under chapter ~~((18.88 or 18.78)) 18.— RCW (sections 401 through 431 of this act)~~ and rules adopted thereunder.

(2) The facility may only allow a resident to give himself or herself medication with the attending physician's permission.

(3) Medication shall only be administered to or used by the resident for whom it is ordered.

**Sec. 753.** RCW 74.42.380 and 1989 c 372 s 6 are each amended to read as follows:

(1) The facility shall have a director of nursing services. The director of nursing services shall be a registered nurse or an advanced registered nurse practitioner.

(2) The director of nursing services is responsible for:

(a) Coordinating the plan of care for each resident;

(b) Permitting only licensed personnel to administer medications: PROVIDED, That nothing herein shall be construed as prohibiting graduate nurses or student nurses from administering medications when permitted to do so under chapter ~~((18.88 or 18.78))~~ 18.— RCW (sections 401 through 431 of this act) and rules ~~((promulgated pursuant thereto))~~ adopted under it: PROVIDED FURTHER, That nothing herein shall be construed as prohibiting persons certified under chapter 18.135 RCW from practicing pursuant to the delegation and supervision requirements of chapter 18.135 RCW and rules ~~((promulgated pursuant thereto))~~ adopted under it; and

(c) Insuring that the licensed practical nurses ~~((comply with chapter 18.78 RCW;))~~ and the registered nurses comply with chapter ((18.88)) 18.— RCW (sections 401 through 431 of this act), and persons certified under chapter 18.135 RCW comply with the provisions of that chapter and rules ~~((promulgated pursuant thereto))~~ adopted under it.

#### **DISABILITY ACCOMMODATION REVOLVING FUND ADVISORY REVIEW BOARD**

**Sec. 801.** RCW 41.04.395 and 1987 c 9 s 2 are each amended to read as follows:

(1) The disability accommodation revolving fund is created in the custody of the state treasurer. Disbursements from the fund shall be on authorization of the director of the department of personnel or the director's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The fund shall be used exclusively by state agencies to accommodate the unanticipated job site or equipment needs of persons of disability in state employ.

(2) The director of the department of personnel shall ~~((appoint an advisory review board to review and approve))~~ consult with the governor's committee on disability issues and employment regarding requests for disbursements from the disability accommodation revolving fund. The ~~((review board))~~ department shall establish application procedures, adopt criteria, and provide technical assistance to users of the fund.

(3) Agencies that receive moneys from the disability accommodation revolving fund shall return to the fund the amount received from the fund by no later than the end of the first month of the following fiscal biennium.

**MOTOR VEHICLE ADVISORY COMMITTEE**

**Sec. 802.** RCW 43.19.558 and 1989 c 57 s 5 are each amended to read as follows:

The motor transport account shall be used to pay the costs of carrying out the programs provided for in RCW 43.19.550 through 43.19.558, unless otherwise specified by law. The director of general administration may recover the costs of the programs by billing agencies that own and operate passenger motor vehicles on the basis of a per vehicle charge. The director of general administration, after consultation with affected state agencies (~~and recommendation of the motor vehicle advisory committee~~), shall establish the rates. All rates shall be approved by the director of financial management. The proceeds generated by these charges shall be used solely to carry out RCW 43.19.550 through 43.19.558.

**Sec. 803.** RCW 43.19.554 and 1990 c 75 s 1 are each amended to read as follows:

(1) To carry out the purposes of RCW 43.19.550 through 43.19.558 and 46.08.065, the director of general administration has the following powers and duties:

(a) To develop and implement a state-wide information system to collect, analyze, and disseminate data on the acquisition, operation, management, maintenance, repair, disposal, and replacement of all state-owned passenger motor vehicles. State agencies shall provide the department with such data as is necessary to implement and maintain the system. The department shall provide state agencies with information and reports designed to assist them in achieving efficient and cost-effective management of their passenger motor vehicle operations.

(b) To survey state agencies to identify the location, ownership, and condition of all state-owned fuel storage tanks.

(c) In cooperation with the department of ecology and other public agencies, to prepare a plan and funding proposal for the inspection and repair or replacement of state-owned fuel storage tanks, and for the clean-up of fuel storage sites where leakage has occurred. The plan and funding proposal shall be submitted to the governor no later than December 1, 1989.

(d) To develop and implement a state-wide motor vehicle fuel purchase, distribution, and accounting system to be used by all state agencies and their employees. The director may exempt agencies from participation in the system if the director determines that participation interferes with the statutory duties of the agency.

(e) To establish minimum standards and requirements for the content and frequency of safe driving instruction for state employees operating state-owned passenger motor vehicles, which shall include consideration of employee driving records. In carrying out this requirement, the department shall consult with other agencies that have expertise in this area.

(f) To develop a schedule, after consultation with ~~((the state motor vehicle advisory committee and))~~ affected state agencies, for state employees to participate in safe driving instruction.

(g) To require all state employees to provide proof of a driver's license recognized as valid under Washington state law prior to operating a state-owned passenger vehicle.

(h) To develop standards for the efficient and economical replacement of all categories of passenger motor vehicles used by state agencies and provide those standards to state agencies and the office of financial management.

(i) To develop and implement a uniform system and standards to be used for the marking of passenger motor vehicles as state-owned vehicles as provided for in RCW 46.08.065. The system shall be designed to enhance the resale value of passenger motor vehicles, yet ensure that the vehicles are clearly identified as property of the state.

(j) To develop and implement other programs to improve the performance, efficiency, and cost-effectiveness of passenger motor vehicles owned and operated by state agencies.

(k) To consult with state agencies and institutions of higher education in carrying out RCW 43.19.550 through 43.19.558.

(2) The director shall establish an operational unit within the department to carry out subsection (1) of this section. The director shall employ such personnel as are necessary to carry out RCW 43.19.550 through 43.19.558. Not more than three employees within the unit may be exempt from chapter 41.06 RCW.

(3) No later than December 31, 1992, the director shall report to the governor and appropriate standing committees of the legislature on the implementation of programs prescribed by this section, any cost savings and efficiencies realized by their implementation, and recommendations for statutory changes.

#### **SOLID WASTE PLAN ADVISORY COMMITTEE**

**NEW SECTION. Sec. 804.** The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994.

#### **POLLUTION LIABILITY INSURANCE PROGRAM TECHNICAL ADVISORY COMMITTEE**

**Sec. 805.** RCW 70.148.030 and 1990 c 64 s 4 are each amended to read as follows:

(1) The Washington pollution liability insurance program is created as an independent agency of the state. The administrative head and appointing authority of the program shall be the director who shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The salary for this office shall be set by the governor pursuant to RCW 43.03.040. The director shall appoint a deputy director. The director,

deputy director, and up to three other employees are exempt from the civil service law, chapter 41.06 RCW.

(2) The director shall employ such other staff as are necessary to fulfill the responsibilities and duties of the director. The staff is subject to the civil service law, chapter 41.06 RCW. In addition, the director may contract with third parties for services necessary to carry out its activities where this will promote economy, avoid duplication of effort, and make best use of available expertise. To the extent necessary to protect the state from unintended liability and ensure quality program and contract design, the director shall contract with an organization or organizations with demonstrated experience and ability in managing and designing pollution liability insurance and with an organization or organizations with demonstrated experience and ability in managing and designing pollution liability reinsurance. The director shall enter into such contracts after competitive bid but need not select the lowest bid. Any such contractor or consultant is prohibited from releasing, publishing, or otherwise using any information made available to it under its contractual responsibility without specific permission of the program director. The director may call upon other agencies of the state to provide technical support and available information as necessary to assist the director in meeting the director's responsibilities under this chapter. Agencies shall supply this support and information as promptly as circumstances permit.

~~(3) (The governor shall appoint a standing technical advisory committee that is representative of the public, the petroleum marketing industry, business and local government owners of underground storage tanks, and insurance professionals. Individuals appointed to the technical advisory committee shall serve at the pleasure of the governor and without compensation for their services as members, but may be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.~~

~~(4) A member of the technical advisory committee of the program is not civilly liable for any act or omission in the course and scope of his or her official capacity unless the act or omission constitutes gross negligence.)) The director may appoint ad hoc technical advisory committees to obtain expertise necessary to fulfill the purposes of this chapter.~~

#### OFFICE OF RURAL HEALTH ADVISORY COMMITTEE

**Sec. 806.** RCW 70.175.030 and 1989 1st ex.s. c 9 s 703 are each amended to read as follows:

(1) The department shall establish the Washington rural health system project to provide financial and technical assistance to participants. The goal of the project is to help assure access to affordable health care services to citizens in the rural areas of Washington state.

(2) Administrative costs necessary to implement this project shall be kept at a minimum to insure the maximum availability of funds for participants.

~~(3) ((The secretary may appoint such technical or advisory committees as he or she deems necessary consistent with the provisions of RCW 43.70.040. In appointing an advisory committee the secretary should assure representation by health care professionals, health care providers, and those directly involved in the purchase, provision, or delivery of health care services as well as consumers, rural community leaders, and those knowledgeable of the issues involved with health care public policy. Individuals appointed to any technical advisory committee shall serve without compensation for their services as members, but may be reimbursed for their travel expenses pursuant to RCW 43.03.050 and 43.03.060.~~

~~(4))~~ The secretary may contract with third parties for services necessary to carry out activities to implement this chapter where this will promote economy, avoid duplication of effort, and make the best use of available expertise.

~~((5))~~ (4) The secretary may apply for, receive, and accept gifts and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including the undertaking of special studies and other projects related to the delivery of health care in rural areas.

~~((6))~~ (5) In designing and implementing the project the secretary shall consider the report of the Washington rural health care commission established under chapter 207, Laws of 1988. Nothing in this chapter requires the secretary to follow any specific recommendation contained in that report except as it may also be included in this chapter.

### FISHERIES ADVISORY REVIEW BOARDS

**Sec. 807.** RCW 75.30.050 and 1993 c 376 s 9 and 1993 c 240 s 27 are each reenacted and amended to read as follows:

(1) The director shall appoint three-member advisory review boards to hear cases as provided in RCW 75.30.060. Members shall be from:

~~(a) ((The salmon charter boat fishing industry in cases involving salmon charter licenses or angler permits;~~

~~(b) The commercial salmon fishing industry in cases involving commercial salmon fishery licenses;~~

~~(e))~~ The commercial crab fishing industry in cases involving Dungeness crab—Puget Sound fishery licenses;

~~((d))~~ (b) The commercial herring fishery in cases involving herring fishery licenses;

~~((e) The commercial Puget Sound whiting fishery in cases involving whiting—Puget Sound fishery licenses;~~

~~(f))~~ (c) The commercial sea urchin fishery in cases involving sea urchin dive fishery licenses;

~~((g))~~ (d) The commercial sea cucumber fishery in cases involving sea cucumber dive fishery licenses; and

~~((H))~~ (e) The commercial ocean pink shrimp industry (*Pandalus jordani*) in cases involving ocean pink shrimp delivery licenses.

(2) Members shall serve at the discretion of the director and shall be reimbursed for travel expenses as provided in RCW 43.03.050, 43.03.060, and 43.03.065.

### FISHERIES REGIONAL ADVISORY COMMITTEES

NEW SECTION. **Sec. 808.** A new section is added to chapter 75.30 RCW to read as follows:

The director of the department of fish and wildlife shall abolish the department's regional advisory committees, effective July 1, 1994.

### OIL AND GAS CONSERVATION COMMITTEE

**Sec. 809.** RCW 78.52.010 and 1983 c 253 s 2 are each amended to read as follows:

For the purposes of this chapter, unless the text otherwise requires, the following terms shall have the following meanings:

(1) "Certificate of clearance" means a permit prescribed by the ~~((committee))~~ department for the transportation or the delivery of oil, gas, or product.

(2) "~~((Committee))~~ Department" means the ~~((oil and gas conservation committee))~~ department of natural resources.

(3) "Development unit" means the maximum area of a pool which may be drained efficiently and economically by one well.

(4) "Division order" means an instrument showing percentage of royalty or rental divisions among royalty owners.

(5) "Fair and reasonable share of the production" means, as to each separately-owned tract or combination of tracts, that part of the authorized production from a pool that is substantially in the proportion that the amount of recoverable oil or gas under the development unit of that separately-owned tract or tracts bears to the recoverable oil or gas or both in the total of the development units in the pool.

(6) "Field" means the general area which is overlaid by at least one pool and includes the underground reservoir or reservoirs containing oil or gas, or both. The words "field" and "pool" mean the same thing when only one underground reservoir is involved; however, "field," unlike "pool," may relate to two or more pools.

(7) "Gas" means all natural gas, all gaseous substances, and all other fluid or gaseous hydrocarbons not defined as oil in subsection (12) of this section, including but not limited to wet gas, dry gas, residue gas, condensate, and distillate, as those terms are generally understood in the petroleum industry.

(8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well within the state in violation of this chapter or any rule or order of the ~~((committee))~~ department.

(9) "Illegal product" means any product derived in whole or part from illegal oil or illegal gas.

(10) "Interested person" means a person with an ownership, basic royalty, or leasehold interest in oil or gas within an existing or proposed development unit or unitized pool.

(11) "Lessee" means the lessee under an oil and gas lease, or the owner of any land or mineral rights who has the right to conduct or carry on any oil and gas development, exploration and operation thereon, or any person so operating for himself, herself, or others.

(12) "Oil" means crude petroleum, oil, and all hydrocarbons, regardless of gravity, that are in the liquid phase in the original reservoir conditions and are produced and recovered at the wellhead in liquid form.

(13) "Operator" means the person who operates a well or unit or who has been designated or accepted by the owners to operate the well or unit, and who is responsible for compliance with the ((committee's)) department's rules and policies.

(14) "Owner" means the person who has the right to develop, operate, drill into, and produce from a pool and to appropriate the oil or gas that he or she produces therefrom, either for that person or for that person and others.

(15) "Person" means any natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, or representative of any kind and includes any governmental or political subdivision or any agency thereof.

(16) "Pool" means an underground reservoir containing a common accumulation of oil or gas, or both. Each zone of a structure which is completely separated from any other zone in the same structure such that the accumulations of oil or gas are not common with each other is considered a separate pool and is covered by the term "pool" as used in this chapter.

(17) "Pooling" means the integration or combination of two or more tracts into an area sufficient to constitute a development unit of the size for one well as prescribed by the ((committee)) department.

(18) "Product" means any commodity made from oil or gas.

(19) "Protect correlative rights" means that the action or regulation by the ((committee)) department should afford a reasonable opportunity to each person entitled thereto to recover or receive without causing waste his or her fair and reasonable share of the oil and gas in this tract or tracts or its equivalent.

(20) "Royalty" means a right to or interest in oil or gas or the value from or attributable to production, other than the right or interest of a lessee, owner, or operator, as defined herein. Royalty includes, but is not limited to the basic royalty in a lease, overriding royalty, and production payments. Any such interest may be referred to in this chapter as "royalty" or "royalty interest." As used in this chapter "basic royalty" means the royalty reserved in a lease. "Royalty owner" means a person who owns a royalty interest.

(21) "Supervisor" means the state oil and gas supervisor.

(22) "Unitization" means the operation of all or part of a field or reservoir as a single entity for operating purposes.



(23) "Waste" in addition to its ordinary meaning, means and includes:

- (a) "Physical waste" as that term is generally understood in the petroleum industry;
- (b) The inefficient, excessive, or improper use of, or unnecessary dissipation of, reservoir energy, and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well in a manner which results or is probable to result in reducing the quantity of oil or gas to be recovered from any pool in this state under operations conducted in accordance with prudent and proper practices or that causes or tends to cause unnecessary wells to be drilled;
- (c) The inefficient above-ground storage of oil, and the locating, spacing, drilling, equipping, operating, or producing of any oil or gas well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of oil or gas;
- (d) The production of oil or gas in such manner as to cause unnecessary water channeling, or coning;
- (e) The operation of an oil well with an inefficient gas-oil ratio;
- (f) The drowning with water of any pool or part thereof capable of producing oil or gas, except insofar as and to the extent authorized by the ~~((committee))~~ department;
- (g) Underground waste;
- (h) The creation of unnecessary fire hazards;
- (i) The escape into the open air, from a well producing oil or gas, of gas in excess of the amount which is reasonably necessary in the efficient development or production of the well;
- (j) The use of gas for the manufacture of carbon black, except as provided in RCW 78.52.140;
- (k) Production of oil and gas in excess of the reasonable market demand;
- (l) The flaring of gas from gas wells except that which is necessary for the drilling, completing, or testing of the well; and
- (m) The unreasonable damage to natural resources including but not limited to the destruction of the surface, soils, wildlife, fish, or aquatic life from or by oil and gas operations.

**Sec. 810.** RCW 78.52.025 and 1983 c 253 s 3 are each amended to read as follows:

The ~~((committee))~~ department shall hold hearings or meetings at such times and places as may be found by the ~~((committee))~~ department to be necessary to carry out its duties. The ~~((committee))~~ department may establish its own rules for the conduct of public hearings or meetings consistent with other applicable law.

**Sec. 811.** RCW 78.52.030 and 1951 c 146 s 6 are each amended to read as follows:

The ~~((committee shall have the authority and it shall be its duty to))~~ department shall employ all personnel necessary to carry out the provisions of this chapter.

**Sec. 812.** RCW 78.52.031 and 1983 c 253 s 5 are each amended to read as follows:

The ~~((committee shall have the power to))~~ department may subpoena witnesses, ~~((to))~~ administer oaths, and ~~((to))~~ require the production of records, books, and documents for examination at any hearing or investigation conducted by it. No person shall be excused from attending and testifying, or from producing books, papers, and records before the ~~((committee))~~ department or a court, or from obedience to the subpoena of the ~~((committee))~~ department or a court, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of ~~((him))~~ the person may tend to incriminate ~~((him))~~ the person or subject ~~((him))~~ the person to a penalty or forfeiture: PROVIDED, That nothing herein contained shall be construed as requiring any person to produce any books, papers, or records, or to testify in response to any inquiry not pertinent to some question lawfully before ~~((such committee))~~ the department or court for determination. No person shall be subjected to criminal prosecution or to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which, in spite of his or her objection, he or she may be required to testify or produce evidence, documentary or otherwise before the ~~((committee))~~ department or court, or in obedience to its subpoena: PROVIDED, HOWEVER, That no person testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

**Sec. 813.** RCW 78.52.032 and 1983 c 253 s 10 are each amended to read as follows:

In addition to the powers and authority, either express or implied, granted to the ~~((Washington oil and gas conservation committee))~~ department by virtue of the laws of this state, the ~~((committee))~~ department may, in prescribing its rules of order or procedure in connection with hearings or other proceedings before the ~~((committee))~~ department, provide for the appointment of one or more examiners to conduct a hearing or hearings with respect to any matter properly coming before the ~~((committee))~~ department and to make reports and recommendations to the ~~((committee))~~ department with respect thereto. Any ~~((member))~~ employee of the ~~((committee, or its staff))~~ department or any other person designated by the ~~((committee))~~ commissioner of public lands, or the supervisor when this power is so delegated, may serve as an examiner. The ~~((committee))~~ department shall adopt rules governing hearings to be conducted before examiners.

**Sec. 814.** RCW 78.52.033 and 1951 c 146 s 8 are each amended to read as follows:

In case of failure or refusal on the part of any person to comply with a subpoena issued by the ~~((committee))~~ department or in case of the refusal of any

witness to testify as to any matter regarding which ~~((he))~~ the witness may be interrogated, any superior court in the state, upon the application of the ~~((committee))~~ department, may compel ~~((him))~~ the person to comply with such subpoena, and to attend before the ~~((committee))~~ department and produce such records, books, and documents for examination, and to give his or her testimony and shall have the power to punish for contempt as in the case of disobedience to a like subpoena issued by the court, or for refusal to testify therein.

**Sec. 815.** RCW 78.52.035 and 1951 c 146 s 9 are each amended to read as follows:

The attorney general shall be the attorney for the ~~((committee: PROVIDED, That))~~ department, but in cases of emergency, the ~~((committee))~~ department may call upon the prosecuting attorney of the county where the action is to be brought, or defended, to represent the ~~((committee))~~ department until such time as the attorney general may take charge of the litigation.

**Sec. 816.** RCW 78.52.037 and 1983 c 253 s 4 are each amended to read as follows:

~~((The department of natural resources is the designated agent of the committee for the purpose of carrying out this chapter. It shall administer and enforce this chapter consistent with the policies adopted by the committee, together with all rules and orders which the committee may adopt and delegate, including but not limited to issuing permits, orders, enforcement actions, and other actions or decisions authorized to be made under this chapter.))~~ The department shall designate a state oil and gas supervisor who shall be charged with duties as may be delegated by the department. The department ~~((of natural resources))~~ may designate one or more deputy supervisors and employ all personnel necessary including the appointment of examiners as provided in RCW 78.52.032 to carry out this chapter and the rules and orders of the ~~((committee))~~ department.

**Sec. 817.** RCW 78.52.040 and 1983 c 253 s 6 are each amended to read as follows:

~~((It shall be the duty of the committee to))~~ The department shall administer and enforce the provisions of this chapter by the adoption of policies, and all rules, regulations, and orders promulgated hereunder, and the ~~((committee is hereby vested with))~~ department has jurisdiction, power, and authority, over all persons and property, public and private, necessary to enforce effectively such duty.

**Sec. 818.** RCW 78.52.050 and 1983 c 253 s 7 are each amended to read as follows:

The ~~((committee shall have authority to))~~ department may make such reasonable rules, regulations, and orders as may be necessary from time to time for the proper administration and enforcement of this chapter. Unless otherwise required by law or by this chapter or by rules of procedure made under this chapter, the ~~((committee))~~ department may make such rules, regulations, and

orders, after notice, as the basis therefor. The notice may be given by publication in some newspaper of general circulation in the state in a manner and form which may be prescribed by the ~~((committee))~~ department by general rule. The public hearing shall be at the time and in the manner and at the place prescribed by the ~~((committee))~~ department, and any person having any interest in the subject matter of the hearing shall be entitled to be heard. In addition, written notice shall be mailed to all interested persons who have requested, in writing, notice of ~~((committee))~~ department hearings, rulings, policies, and orders. The ~~((committee))~~ department shall establish and maintain a mailing list for this purpose. Substantial compliance with these mailing requirements is deemed compliance with ~~((the provisions herewith))~~ this section.

**Sec. 819.** RCW 78.52.070 and 1951 c 146 s 12 are each amended to read as follows:

Any interested person shall have the right to have the ~~((committee))~~ department call a hearing for the purpose of taking action with respect to any matter within the jurisdiction of the ~~((committee))~~ department by filing a verified written petition therefor, which shall state in substance the matter and reasons for and nature of the action requested. Upon receipt of any such request the ~~((committee))~~ department, if in its judgment a hearing is warranted and justifiable, shall promptly call a hearing thereon, and after such hearing, and with all convenient speed, and in any event within twenty days after the conclusion of such hearing, shall take such action with regard to the subject matter thereof as it may deem appropriate.

**Sec. 820.** RCW 78.52.100 and 1983 c 253 s 8 are each amended to read as follows:

All rules, regulations, policies, and orders of the ~~((committee))~~ department, all petitions, copies of all notices and actions with affidavits of posting, mailing, or publications pertaining thereto, all findings of fact, and transcripts of all hearings shall be in writing and shall be entered in full by the ~~((committee))~~ department in the permanent official records of the office of the commissioner of public lands and shall be open for inspection at all times during reasonable office hours. A copy of any rule, regulation, policy, order, or other official records of the ~~((committee))~~ department, certified by the ~~((executive secretary of the committee))~~ commissioner of public lands, shall be received in evidence in all courts of this state with the same effect as the original. The ~~((committee))~~ department is hereby required to furnish to any person upon request, copies of all rules, regulations, policies, orders, and amendments thereof.

**Sec. 821.** RCW 78.52.120 and 1983 c 253 s 11 are each amended to read as follows:

Any person desiring or proposing to drill any well in search of oil or gas, before commencing the drilling of any such well, shall apply to the ~~((committee))~~ department upon such form as the ~~((committee))~~ department may prescribe, and

shall pay to the state treasurer a fee of the following amounts for each application:

(1) For each well the estimated depth of which is three thousand five hundred feet or less, two hundred fifty dollars;

(2) From three thousand five hundred one feet to seven thousand feet, five hundred dollars;

(3) From seven thousand one feet to twelve thousand feet, seven hundred fifty dollars; and

(4) From twelve thousand one feet and deeper, one thousand dollars.

In addition, as pertains to the tract upon which the well is proposed to be located, the applicant must notify the surface landowner, the landowner's tenant, and other surface users in the manner provided by regulations of the ~~((committee))~~ department that a drilling permit has been applied for by furnishing each such surface landowner, tenant, and other users with a copy of the application concurrent with the filing of the application. Within fifteen days of receipt of the application, each such surface landowner, the landowner's tenant, and other surface users have the right to inform the ~~((committee))~~ department of objections or comments as to the proposed use of the surface by the applicant, and the ~~((committee))~~ department shall consider the objections or comments.

The drilling of any well is prohibited until a permit is given and such fee has been paid as ~~((herein))~~ provided in this section. The ~~((committee shall have the authority to))~~ department may prescribe that the said form indicate the exact location of such well, the name and address of the owner, operator, contractor, driller, and any other person responsible for the conduct of drilling operations, the proposed depth of the well, the elevation of the well above sea level, and such other relevant and reasonable information as the ~~((committee))~~ department may deem necessary or convenient to effectuate the purposes of this chapter.

The ~~((committee))~~ department shall issue a permit if it finds that the proposed drilling will be consistent with this chapter, the rules~~((s))~~ and orders adopted under it, and is not detrimental to the public interest. The ~~((committee))~~ department shall impose conditions and restrictions as necessary to protect the public interest and to ensure compliance with this chapter, and the rules and orders adopted by the ~~((committee))~~ department. A person shall not apply to drill a well in search of oil or gas unless that person holds an ownership or contractual right to locate and operate the drilling operations upon the proposed drilling site. A person shall not be issued a permit unless that person prima facie holds an ownership or contractual right to drill to the proposed depth, or proposed horizon. Proof of prima facie ownership shall be presented to the ~~((committee))~~ department.

**Sec. 822.** RCW 78.52.125 and 1971 ex.s. c 180 s 8 are each amended to read as follows:

Any person desiring or proposing to drill any well in search of oil or gas, when such drilling would be conducted through or under any surface waters of the state, shall prepare and submit an environmental impact statement upon such form as the department of ecology shall prescribe at least one hundred and

twenty days prior to commencing the drilling of any such well. Within ninety days after receipt of such environmental statement the department of ecology shall prepare and submit to ~~((each member of the committee))~~ the department of natural resources a report examining the potential environmental impact of the proposed well and recommendations for ~~((committee))~~ department action thereon. If after consideration of the report the ~~((committee))~~ department determines that the proposed well is likely to have a substantial environmental impact the drilling permit for such well may be denied.

The ~~((committee))~~ department shall require sufficient safeguards to minimize the hazards of pollution of all surface and ground waters of the state. If safeguards acceptable to the ~~((committee))~~ department cannot be provided the drilling permit shall be denied.

**Sec. 823.** RCW 78.52.140 and 1951 c 146 s 16 are each amended to read as follows:

The use of gas from a well producing gas only, or from a well which is primarily a gas well, for the manufacture of carbon black or similar products predominantly carbon, is declared to constitute waste prima facie, and such gas well shall not be used for any such purpose unless it is clearly shown, at a public hearing to be held by the ~~((committee))~~ department, on application of the person desiring to use such gas, that waste would not take place by the use of such gas for the purpose or purposes applied for, and that gas which would otherwise be lost is not available for such purpose or purposes, and that the gas to be used cannot be used for a more beneficial purpose, such as for light or fuel purposes, except at prohibitive cost, and that it would be in the public interest to grant such permit. If the ~~((committee))~~ department finds that the applicant has clearly shown a right to use such gas for the purpose or purposes applied for, it shall issue a permit upon such terms and conditions as may be found necessary in order to permit the use of the gas, and at the same time require compliance with the intent of this section.

**Sec. 824.** RCW 78.52.150 and 1951 c 146 s 17 are each amended to read as follows:

The ~~((committee has authority, and it shall be its duty, to))~~ department shall make such investigations as it may deem proper to determine whether waste exists or is imminent or whether other facts exist which justify action by the ~~((committee))~~ department.

**Sec. 825.** RCW 78.52.155 and 1983 c 253 s 9 are each amended to read as follows:

(1) The ~~((committee))~~ department shall make investigations as necessary to carry out this chapter.

(2) The ~~((committee and the))~~ department~~((consistent with the committee's policies,))~~ shall require:

(a) Identification of ownership of oil or gas wells, producing leases, tanks, plants, structures, and facilities for the transportation or refining of oil or gas;

(b) The making and filing of well logs, core samples, directional surveys, and reports on well locations, drilling, and production;

(c) The testing of oil and gas wells;

(d) The drilling, casing, operating, and plugging of wells in such a manner as to prevent the escape of oil or gas out of the casings, or out of one pool into another, the intrusion of water into an oil or gas pool, and the pollution of freshwater supplies by oil, gas, or saltwater and to prevent blowouts, cavings, seepages, and fires;

(e) The furnishing of adequate security acceptable to the department, conditioned on the performance of the duty to plug each dry or abandoned well, the duty to reclaim and clean-up well drilling sites, the duty to repair wells causing waste, the duty to comply with all applicable laws and rules adopted by the ~~((committee))~~ department, orders of the ~~((committee and the))~~ department, all permit conditions, and this chapter;

(f) The operation of wells with efficient gas-oil and water-oil ratios and may fix these ratios and limit production from wells with inefficient gas-oil or water-oil ratios;

(g) The production of oil and gas from wells be accurately measured by means and upon standards prescribed by the ~~((committee))~~ department, and that every person who produces, sells, purchases, acquires, stores, transports, treats, or processes oil or gas in this state keeps and maintains for a period of five years within this state complete and accurate records thereof, which records shall be available for examination by the ~~((committee))~~ department or its agents at all reasonable times, and that every person file with the ~~((committee))~~ department such reports as it may prescribe with respect to the oil or gas; and

(h) Compliance with all applicable laws and rules of this state.

(3) The ~~((committee and the department, consistent with the committee's policies;))~~ department shall regulate:

(a) The drilling, producing, locating, spacing, and plugging of wells and all other operations for the production of oil or gas;

(b) The physical, mechanical, and chemical treatment of wells, and the perforation of wells;

(c) Operations to increase ultimate recovery such as cycling of gas, the maintenance of pressure, and the introduction of gas, water, or other substances into producing formations;

(d) Disposal of saltwater and oil field brines;

(e) The storage, processing, and treatment of natural gas and oil produced within this state; and

(f) Reclamation and clean-up of all well sites and any areas directly affected by the drilling, production, operation, and plugging of oil and gas wells.

(4) The ~~((committee))~~ department may limit and prorate oil and gas produced in this state and may restrict future production of oil and gas from any pool in such amounts as will offset and compensate for any production

determined by the ~~((committee))~~ department to be in excess of or in violation of "oil allowable" or "gas allowable."

(5) The ~~((committee))~~ department shall classify wells as oil or gas wells for purposes material to the interpretation or enforcement of this chapter.

(6) The ~~((committee and the department, consistent with the committee's policies;))~~ department shall regulate oil and gas exploration and drilling activities so as to prevent or remedy unreasonable or excessive waste or surface destruction.

**Sec. 826.** RCW 78.52.200 and 1983 c 253 s 12 are each amended to read as follows:

When necessary to prevent waste, to avoid the drilling of unnecessary wells, or to protect correlative rights including those of royalty owners, the ~~((committee))~~ department, upon its own motion or upon application of interested persons, shall establish development units covering any known pool. Development units shall be of uniform size and shape for the entire pool unless the ~~((committee))~~ department finds that it must make an exception due to geologic, geographic, or other factors. When necessary, the ~~((committee))~~ department may divide any pool into zones and establish development units for each zone, which units may differ in size and shape from those established in any other zone.

**Sec. 827.** RCW 78.52.205 and 1983 c 253 s 13 are each amended to read as follows:

Within sixty days after the discovery of oil or gas in a pool not then covered by an order of the ~~((committee))~~ department, a hearing shall be held and the ~~((committee))~~ department shall issue an order prescribing development units for the pool. If sufficient geological or other scientific data from drilling operations or other evidence is not available to determine the maximum area that can be efficiently and economically drained by one well, the ~~((committee))~~ department may establish temporary development units to ensure the orderly development of the pool pending availability of the necessary data. A temporary order shall continue in force for a period of not more than twenty-four months at the expiration of which time, or upon the petition of an affected person, the ~~((committee))~~ department shall require the presentation of such geological, scientific, drilling, or other evidence as will enable it to determine the proper development units in the pool. During the interim period between the discovery and the issuance of the temporary order, permits shall not be issued for the drilling of direct offsets to a discovery well.

**Sec. 828.** RCW 78.52.210 and 1983 c 253 s 14 are each amended to read as follows:

(1) The size and the shape of any development units shall be such as will result in the efficient and economical development of the pool as a whole, and the size shall not be smaller than the maximum area that can be efficiently and economically drained by one well as determined by competent geological, geophysical, engineering, drilling, or other scientific testimony, data, and



evidence. The ~~((committee))~~ department shall fix a development unit of not more than one hundred sixty acres for any pool deemed by the ~~((committee))~~ department to be an oil reservoir, or of six hundred forty acres for any pool deemed by the ~~((committee))~~ department to be a gas reservoir, plus a ten percent tolerance in either case to allow for irregular sections. The ~~((committee))~~ department may, at its discretion, after notice and hearing, establish development units for oil and gas in variance of these limitations when competent geological, geophysical, engineering, drilling, or other scientific testimony, data, and evidence is presented and upon a finding that one well can efficiently and economically drain a larger or smaller area and is justified because of technical, economic, environmental, or safety considerations.

(2) The ~~((committee))~~ department may establish development units of different sizes or shapes for different parts of a pool or may grant exceptions to the size or shapes of any development unit or units. Where development units of different sizes or shapes exist in a pool, the ~~((committee))~~ department shall, if necessary, make such adjustments to the allowable production from the well or wells drilled thereon so that each operator in each development unit will have a reasonable opportunity to produce or receive his or her just and equitable share of the production.

**Sec. 829.** RCW 78.52.220 and 1983 c 253 s 15 are each amended to read as follows:

An order establishing development units for a pool shall specify the size and shape of each area and the location of the permitted well thereon in accordance with a reasonable uniform spacing plan. Upon application and after notice and a hearing, if the ~~((committee))~~ department finds that a well drilled at the prescribed location would not produce in paying quantities, or that surface conditions would substantially add to the burden or hazard of drilling such well, the ~~((committee is authorized to))~~ department may enter an order permitting the well to be drilled pursuant to permit at a location other than that prescribed by such development order; however, the ~~((committee))~~ department shall include in the order suitable provisions to prevent the production from the development unit of more than its just and equitable share of the oil and gas in the pool.

**Sec. 830.** RCW 78.52.230 and 1983 c 253 s 16 are each amended to read as follows:

An order establishing development units for a pool shall cover all lands determined or believed to be underlaid by such pool, and may be modified by the ~~((committee))~~ department from time to time to include additional areas determined to be underlaid by such pool. When the ~~((committee))~~ department determines that it is necessary for the prevention of waste, or to avoid the drilling of unnecessary wells, or to protect correlative rights, an order establishing development units in a pool may be modified by the ~~((committee))~~ department to increase or decrease the size of development units in the pool or

to permit the drilling of additional wells on a reasonably uniform plan in the pool.

**Sec. 831.** RCW 78.52.240 and 1983 c 253 s 17 are each amended to read as follows:

When two or more separately-owned tracts are embraced within a development unit, or when there are separately owned interests in all or a part of the development unit, then the owners and lessees thereof may pool their interests for the development and operation of the development unit. In the absence of this voluntary pooling, the ((committee)) department, upon the application of any interested person, shall enter an order pooling all interests, including royalty interests, in the development unit for the development and operation thereof. Each such pooling order shall be made after notice and hearing. The applicant or applicants shall have the burden of proving that all reasonable efforts have been made to obtain the consent of, or to reach agreement with, other owners.

**Sec. 832.** RCW 78.52.245 and 1983 c 253 s 18 are each amended to read as follows:

A pooling order shall be upon terms and conditions that are fair and reasonable and that afford to each owner and royalty owner his or her fair and reasonable share of production. Production shall be allocated as follows:

(1) For the purpose of determining the portions of production owned by the persons owning interests in the pooled unit, the production shall be allocated to the respective tracts within the unit in the proportion that the surface acres in each tract bear to the number of surface acres included in the entire unit.

(2) Notwithstanding subsection (1) of this section, if the ((committee)) department finds that allocation on a surface acreage basis does not allocate to each tract its fair share, the ((committee)) department shall allocate the production so that each tract will receive its fair share.

**Sec. 833.** RCW 78.52.250 and 1983 c 253 s 19 are each amended to read as follows:

(1) Each such pooling order shall make provision for the drilling and operation of a well on the development unit, and for the payment of the reasonable actual cost thereof by the owners of interests required to pay such costs in the development unit, plus a reasonable charge for supervision and storage facilities. Costs associated with production from the pooled unit shall be allocated in the same manner as is production in RCW 78.52.245. In the event of any dispute as to such costs the ((committee)) department shall determine the proper costs.

(2) As to each owner who fails or refuses to agree to bear his or her proportionate share of the costs of the drilling and operation of the well, the order shall provide for reimbursement of those persons paying for the drilling and operation of the well of the nonconsenting owner's share of the costs from, and only from, production from the unit representing that person's interest,

excluding royalty or other interests not obligated to pay any part of the cost thereof. The ~~((committee))~~ department may provide that the consenting owners shall own and be entitled to receive all production from the well after payment of the royalty as provided in the lease, if any, applicable to each tract or interest, and obligations payable from production, until the consenting owners have been paid the amount due under the terms of the pooling order or order settling any dispute.

The order shall determine the interest of each owner in the unit and shall provide that each consenting owner is entitled to receive, subject to royalty or similar obligations, the share of the production of the well applicable to the owner's interest in the unit, and, unless the owner has agreed otherwise, his or her proportionate part of the nonconsenting owner's share of the production until costs are recovered as provided in this subsection. Each nonconsenting owner is entitled to receive, subject to royalty or similar obligations, the share of production from the well applicable to the owner's interest in the unit after the consenting owners have recovered from the nonconsenting owner's share of production the following:

(a) In respect to every such well, one hundred percent of the nonconsenting owner's share of the cost of surface equipment beyond the wellhead connections, including but not limited to, stock tanks, separators, treaters, pumping equipment, and piping, plus one hundred percent of the nonconsenting owner's share of the cost of operation of the well, commencing with first production and continuing until the consenting owners have recovered these costs, with the intent that the nonconsenting owner's share of these costs and equipment will be that interest which would have been chargeable to the nonconsenting owner had he or she initially agreed to pay his or her share of the costs of the well from the beginning of the operation;

(b) One hundred fifty percent of that portion of the costs and expenses of staking the location, well site preparation, rights of way, rigging-up, drilling, reworking, deepening or plugging back, testing, and completing, after deducting any cash contributions received by the consenting owners, and also one hundred fifty percent of that portion of the cost of equipment in the well, up to and including the wellhead connections; and

(c) If there is a dispute regarding the costs, the ~~((committee))~~ department shall determine the proper costs and their allocation among working interest owners after due notice to interested parties and a hearing on the costs.

(3) The operator of a well under a pooling order in which there are nonconsenting owners shall furnish the nonconsenting owners with monthly statements of all costs incurred, together with the quantity of oil or gas produced, and the amount of proceeds realized from the sale of this production during the preceding month. If and when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in subsection (2) of this section, the relinquished interest of the nonconsenting owner shall automatically revert to him or her, and the nonconsenting owner shall own the

same interest in the well and the production from it and be liable for the further costs of the operation as if he or she had participated in the initial drilling and operation.

(4) A nonconsenting owner of a tract in a development unit which is not subject to any lease or other contract for the development thereof for oil and gas shall elect within fifteen days of the issuance of the pooling order or such further time as the ~~((committee))~~ department shall, in the order, allow:

(a) To be treated as a nonconsenting owner as provided in subsections (2) and (3) of this section and is deemed to have a basic landowners' royalty of one-eighth, or twelve and one-half percent, of the production allocated to the tract, unless a higher basic royalty has been established in the development unit. If a higher royalty has been established, then the nonconsenting owner of a nonleased tract shall receive the higher basic royalty. This presumed royalty shall exist only during the time that costs and expenses are being recovered under subsection (2) of this section, and is intended to assure that the owner of a nonleased tract receive a basic royalty free of all costs at all times. Notwithstanding anything herein to the contrary, the owner shall at all times retain his or her entire ownership of the property, including the right to execute an oil and gas lease on any terms negotiated, and be entitled to all production subject to subsection (2) of this section; or

(b) To grant a lease to the operator at the current fair market value for that interest for comparable leases or interests at the time of the commencement of drilling; or

(c) To pay his or her pro rata share of the costs of the well or wells in the development unit and receive his or her pro rata share of production, if any.

A nonconsenting owner who does not make an election as provided in this subsection is deemed to have elected to be treated under (a) of this subsection.

**Sec. 834.** RCW 78.52.257 and 1983 c 253 s 22 are each amended to read as follows:

(1) An order pooling a development unit shall automatically dissolve:

(a) One year after its effective date if there has been no production of commercial quantities or drilling operations on lands within the unit;

(b) Six months after completion of a dry hole on the unit; or

(c) Six months after cessation of production of commercial quantities from the unit, unless, prior to the expiration of such six-month period, the operator shall, in good faith, commence drilling or reworking operations in an effort to restore production.

(2) Upon the termination of a lease pooled by order of the ~~((committee))~~ department under authority granted in this chapter, interests covered by the lease are considered pooled as unleased mineral interests.

(3) Any party to a pooling order is entitled, after due notice to all parties, to a hearing to modify or terminate a previously entered pooling order upon presenting new evidence showing that the previous determination of reservoir conclusions are substantially incorrect.

(4) The ~~((committee, in its discretion))~~ department, after notice and hearing, may grant additional time, for good cause shown, before a pooling order is automatically dissolved as provided in subsection (1) of this section. In no case may such an extension be longer than six months.

**Sec. 835.** RCW 78.52.260 and 1951 c 146 s 28 are each amended to read as follows:

Whenever the ~~((committee shall))~~ department requires the making and filing of well logs, directional surveys, or reports on the drilling of, subsurface conditions found in, or reports with respect to the substance produced, or capable of being produced from, a "wildcat" or "exploratory" well, as those terms are used in the petroleum industry, such logs, surveys, reports, or information shall be kept confidential by the ~~((committee))~~ department for a period of one year, if at the time of filing such logs, surveys, reports, or other information, the owner, lessee, or operator of such well requests that such information be kept confidential: PROVIDED, HOWEVER, That the ~~((committee shall have the right to))~~ department may divulge or use such information in a public hearing or suit when it is necessary for the enforcement of the provisions of this chapter or any rule, regulation, or order made hereunder.

**Sec. 836.** RCW 78.52.270 and 1951 c 146 s 29 are each amended to read as follows:

Whenever the total amount of oil which all of the pools in this state can currently produce in accordance with good operating practices, exceeds the amount reasonably required to meet the reasonable market demand, the ~~((committee))~~ department shall limit the oil which may be currently produced in this state to an amount, designated the "oil allowable~~((<sup>2</sup>))~~." The ~~((committee))~~ department shall then prorate this "oil allowable" among the pools on a reasonable basis, avoiding undue discrimination among the pools, and so that waste will be prevented. In determining the "oil allowable~~((<sup>2</sup>))~~," and in prorating such "oil allowable" among the pools in the state, the ~~((committee))~~ department shall take into account the producing conditions and other relevant facts with respect to such pools, including the separate needs for oil and gas, and separate needs for oil of particular kinds or qualities, and shall formulate rules setting forth standards or a program for the determination of the "oil allowable~~((<sup>2</sup>))~~," and shall prorate the "oil allowable" in accordance with such standards or program, and where conditions in one pool or area are substantially similar to those in another pool or area, then the same standards or program shall be applied to such pools or areas so that as far as practicable a uniform program will be followed: PROVIDED, HOWEVER, That if the amount prorated to a pool as its share of the "oil allowable" is in excess of the amount which the pool can efficiently produce currently, then the ~~((committee))~~ department shall prorate to such pool the maximum amount which can be efficiently produced currently without waste.

**Sec. 837.** RCW 78.52.280 and 1951 c 146 s 30 are each amended to read as follows:

The ((committee)) department shall not be required to determine the reasonable market demand applicable to any single pool of oil except in relation to all pools producing oil of similar kind and quality and in relation to the reasonable market demand. The ((committee)) department shall prorate the "allowable" in such manner as will prevent undue discrimination against any pool or area in favor of another or others resulting from selective buying or nomination by purchasers.

**Sec. 838.** RCW 78.52.290 and 1951 c 146 s 31 are each amended to read as follows:

Whenever the total amount of gas which all of the pools in this state can currently produce in accordance with good operating practice exceeds the amount reasonably required to meet the reasonable market demand, the ((committee)) department shall limit the gas which may be currently produced to an amount, designated as the "gas allowable((")," which will not exceed the reasonable market demand for gas. The ((committee)) department shall then prorate the "gas allowable" among the pools on a reasonable basis, avoiding undue discrimination among the pools, and so that waste will be prevented, giving due consideration to location of pipe lines, cost of interconnecting such pipe lines, and other pertinent factors, and insofar as applicable, the provisions of RCW 78.52.270 shall be followed in determining the "gas allowable" and in prorating such "gas allowable" among the pools therein: PROVIDED, HOWEVER, That in determining the reasonable market demand for gas as between pools, the ((committee)) department shall give due regard to the fact that gas produced from oil pools is to be regulated in a manner which will protect the reasonable use of gas energy for oil production and promote the most or maximum efficient recovery of oil from such pools.

**Sec. 839.** RCW 78.52.300 and 1951 c 146 s 32 are each amended to read as follows:

Whenever the total amount of gas which may be currently produced from all of the pools in this state has not been limited as hereinabove provided, and the available production from any one pool containing gas only is in excess of the reasonable market demand or available transportation facilities for gas from such pool, the ((committee)) department shall limit the production of gas from such pool to that amount which does not exceed the reasonable market demand or transportation facilities for gas from such pool.

**Sec. 840.** RCW 78.52.310 and 1951 c 146 s 33 are each amended to read as follows:

Whenever the ((committee)) department limits the total amount of oil or gas which may be produced from any pool to an amount less than that which the pool could produce if no restrictions were imposed (whether incidental to, or without, a limitation of the total amount of oil which may be produced in the state) the ((committee)) department shall prorate the allowable production for the pool among the producers in the pool on a reasonable basis, so that each

producer will have opportunity to produce or receive his or her just and equitable share, subject to the reasonable necessities for the prevention of waste, giving where reasonable, under the circumstances, to each pool with small wells of settled production, allowable production which prevents the premature abandonment of wells in the pool.

All orders establishing the "oil allowable" and "gas allowable" for this state, and all orders prorating such allowables as herein provided, and any changes thereof, for any month or period shall be issued by the ~~((committee))~~ department on or before the fifteenth day of the month preceding the month for which such orders are to be effective, and such orders shall be immediately published in some newspaper of general circulation printed in Olympia, Washington. No orders establishing such allowables, or prorating such allowables, or any changes thereof, shall be issued without first having a hearing, after notice, as provided in this chapter: PROVIDED, HOWEVER, When in the judgment of the ~~((committee))~~ department, an emergency requiring immediate action is found to exist, the ~~((committee is authorized to))~~ department may issue an emergency order under this section which shall have the same effect and validity as if a hearing with respect to the same had been held after due notice. The emergency order permitted by this ~~((subsection))~~ section shall remain in force no longer than thirty days, and in any event it shall expire when the order made after due notice and hearing with respect to the subject matter of the emergency order becomes effective.

**Sec. 841.** RCW 78.52.320 and 1951 c 146 s 34 are each amended to read as follows:

Whenever the production of oil or gas in this state or any pool therein is limited and the "oil allowable" or "gas allowable" is established and prorated by the ~~((committee))~~ department as provided in RCW 78.52.310, no person shall thereafter produce from any well, pool, lease, or property more than the production which is prorated thereto.

**Sec. 842.** RCW 78.52.330 and 1951 c 146 s 35 are each amended to read as follows:

To assist in the development of oil and gas in this state and to further the purposes of this chapter, the persons owning interests in separate tracts of land, may validly agree to integrate their interests and manage, operate, and develop their land as a unit, subject to the approval of the ~~((committee))~~ department.

**Sec. 843.** RCW 78.52.335 and 1983 c 253 s 23 are each amended to read as follows:

(1) The ~~((committee))~~ department shall upon the application of any interested person, or upon its own motion, hold a hearing to consider the need for the operation as a unit of one or more pools or parts of them in a field.

(2) The ~~((committee shall have the authority to))~~ department may enter an order providing for the unit operations if ~~((the committee))~~ it finds that:

(a) The unit operations are necessary for secondary recovery or enhanced recovery purposes. For purposes of this chapter secondary or enhanced recovery means that oil or gas or both are recovered by any method, artificial flowing or pumping, that may be employed to produce oil or gas, or both, through the joint use of two or more wells with an application of energy extrinsic to the pool or pools. This includes pressuring, cycling, pressure maintenance, or injections into the pool or pools of a substance or form of energy: PROVIDED, That this does not include the injection in a well of a substance or form of energy for the sole purpose of (i) aiding in the lifting of fluids in the well, or (ii) stimulation of the reservoir at or near the well by mechanical, chemical, thermal, or explosive means;

(b) The unit operations will protect correlative rights;

(c) The operations will increase the ultimate recovery of oil or gas, or will prevent waste, or will prevent the drilling of unnecessary wells; and

(d) The value of the estimated additional recovery of oil and/or gas exceeds the estimated additional cost incident to conducting these operations.

(3) The ~~((committee shall also have the authority to))~~ department may also enter an order providing for unit operations, after notice and hearing, only if the ~~((committee))~~ department finds that there is clear and convincing evidence that all of the following conditions are met:

(a) In the absence of unitization, the ultimate recovery of oil or gas, or both, will be substantially decreased because normal production techniques and methods are not feasible and will not result in the maximum efficient and economic recovery of oil or gas, or both;

(b) The unit operations will protect correlative rights;

(c) The unit operations will prevent waste, or will prevent the drilling of unnecessary wells;

(d) There has been a discovery of a commercial oil or gas field; and

(e) There has been sufficient exploration, drilling activity, and development to properly define the one or more pools or parts of them in a field proposed to be unitized.

(4) Notwithstanding any of the above, nothing in this chapter may be construed to prevent the voluntary agreement of all interested persons to any plan of unit operations. The ~~((committee))~~ department shall approve operations upon making a finding consistent with subsection~~((s))~~ (2) (b) and (c) of this section.

(5) The order shall be upon terms and conditions that are fair and reasonable and shall prescribe a plan for unit operations that includes:

(a) A description of the pool or pools or parts thereof to be so operated, termed the unitized area;

(b) A statement of the nature of the operations contemplated;

(c) An allocation of production and costs to the separately-owned tracts in the unitized area. The allocation shall be in accord with the agreement, if any, of the interested parties. If there is no agreement, production shall be allocated in a manner calculated to ensure that each owner's correlative rights are



protected, and each separately-owned tract or combination of tracts receives its fair and reasonable share of production. Costs shall be allocated on a fair and reasonable basis;

(d) A provision, if necessary, prescribing fair, reasonable, and equitable terms and conditions as to time and rate of interest for carrying or otherwise financing any person who is unable to promptly meet his or her financial obligations in connection with the unit, such carrying and interest charges to be paid as provided by the ((committee)) department from the person's prorated share of production;

(e) A provision for the supervision and conduct of the unit operations, in respect to which each owner shall have a vote with a value corresponding to the percentage of the costs of unit operations chargeable against the owner's interest;

(f) The time when the unit operations shall commence, the timetable for development, and the manner and circumstances under which the unit operations shall terminate; and

(g) Additional provisions which are found to be appropriate for carrying out the unit operations and for the protection of correlative rights.

(6) No order of the ((committee)) department providing for unit operations may become effective until:

(a) The plan for unit operations approved by the ((committee)) department has been approved in writing by those persons who, under the ((committee's)) department's order, will be required to pay at least seventy-five percent of the costs of unit operations;

(b) The plan has been approved in writing by those persons such as royalty owners, overriding royalty owners, and production payment owners, who own at least seventy-five percent of the production or proceeds thereof that will be credited to interests that are free of costs; and

(c) The ((committee)) department has made a finding, either in the order providing for unit operations or in a supplemental order, that the plan for unit operations has been so approved. If the plan for unit operations has not been so approved at the time the order providing for unit operations is made, the ((committee)) department shall upon application and notice hold such supplemental hearings as may be required to determine if and when the plan for unit operations has been so approved. If the persons owning required percentages of interest in the unitized area do not approve the plan for unit operations within a period of six months from the date on which the order providing for unit operations is made, or within such additional period or periods of time as the ((committee)) department prescribes, the order will become unenforceable and shall be vacated by the ((committee)) department.

(7) An order providing for unit operations may be amended by an order made by the ((committee)) department in the same manner and subject to the same conditions as an original order, except as provided in subsection (8) of this section, providing for unit operations, but (a) if such an amendment affects only the rights and interests of the owners, the approval of the amendment by those

persons who own interests that are free of costs is not required, and (b) no such amending order may change the percentage for the allocation of oil and gas as established for any separately-owned tract or combination of tracts by the original order, except with the consent of all persons owning oil and gas rights in the tract, and no such order may change the percentage for the allocation of cost as established for any separately-owned tract or combination of tracts by the original order, except with the consent of all persons owning an interest in the tract or combination of tracts. An amendment that provides for the expansion of the unit area shall comply with subsection (8) of this section.

(8) The ((committee)) department, by order, may provide for the unit operation of a reservoir or reservoirs or parts thereof that include a unitized area established by a previous order of the ((committee)) department. The order, in providing for the allocation of unit production, shall first treat the unitized area previously established as a single tract and the portion of the new unit production allocated thereto shall then be allocated among the separately-owned tracts included in the previously established unit area in the same proportions as those specified in the previous order.

(9) After the date designated by the ((committee)) department the unit plan shall be effective, oil and gas leases within the unit area, or other contracts pertaining to the development thereof, shall be changed only to the extent necessary to meet the requirements of the unit plan, and otherwise shall remain in full force. Operations carried on under and in accordance with the unit plan shall be regarded and considered as fulfillment of and compliance with all of the provisions, covenants, and conditions, expressed or implied, of the several oil and gas leases upon lands within the unit area, or other contracts pertaining to the development thereof, insofar as the leases or other contracts may relate to the pool or field subject to the unit plan. The amount of production apportioned and allocated under the unit plan to each separately-owned tract within the unit area, and only that amount, regardless of the location of the well within the unit area from which it may be produced, and regardless of whether it is more or less than the amount of production from the well, if any, on each separately-owned tract, shall for all purposes be regarded as production from the separately-owned tract. Lessees shall not be obligated to pay royalties or make other payments, required by the oil and gas leases or other contracts affecting each such separately-owned tract, on production in excess of that amount apportioned and allocated to the separately-owned tract under the unit plan.

(10) The portion of the unit production allocated to any tract and the proceeds from its sale are the property and income of the several persons to whom, or to whose credit, the portion and proceeds are allocated or payable under the order providing for unit operations.

(11) No division order or other contract relating to the sale, purchase, or production from a separately-owned tract or combination of tracts may be terminated by the order providing for unit operations but shall remain in force

and shall apply to oil and gas allocated to the tract until terminated by an amended division order or contract in accordance with the order.

(12) Except to the extent that parties affected so agree, an order providing for unit operations shall not be construed to result in a transfer of all or any part of the title of any person to the oil and gas rights in any tract in the unit area. All property, whether real or personal, that may be acquired in the conduct of unit operations hereunder shall be acquired for the account of the owners within the unit area, and shall be the property of those owners in the proportion that the expenses of unit operations are charged.

(13) After the date designated by the order of the ((~~committee~~)) department that a unit plan shall become effective, the designation of one or more unit operators shall be by vote of the lessees of land in the unit area, in a manner to be provided in the unit plan, and any operations in conflict with such unit plan shall be unlawful and are prohibited.

(14) A certified copy of any order of the ((~~committee~~)) department entered under this section is entitled to be recorded in the auditor's office in the county or counties wherein all or any portion of the unit area is located and, if recorded, constitute notice thereof to all persons. A copy of this order shall be mailed by certified mail to all interested persons.

(15) No order for unitization may be construed to allow the drilling of a well on a tract within the unit which is not leased or under contract for oil and gas exploration or production.

**Sec. 844.** RCW 78.52.365 and 1983 c 253 s 26 are each amended to read as follows:

The ((~~committee~~)) department may administer and enforce RCW 78.52.345 and 78.52.355 in accordance with the procedures in this chapter for its enforcement and with the rules and orders of the ((~~committee~~)) department.

**Sec. 845.** RCW 78.52.460 and 1951 c 146 s 49 are each amended to read as follows:

No plan for the operation of a field or pool of oil or gas as a unit, either whole or in part, created or approved by the ((~~committee hereunder shall~~)) department under this chapter may be held to violate any of the statutes of this state prohibiting monopolies or acts, arrangements, agreements, contracts, combinations, or conspiracies in restraint of trade or commerce.

**Sec. 846.** RCW 78.52.463 and 1989 c 175 s 167 are each amended to read as follows:

(1) Any operation or activity that is in violation of applicable laws, rules, orders, or permit conditions is subject to suspension by order of the ((~~committee~~)) department. The order may suspend the operations authorized in the permit in whole or in part. The order may be issued only after the ((~~committee~~)) department has first notified the operator or owner of the violations and the operator or owner has failed to comply with the directions contained in the notification within ten days of service of the notice: PROVIDED, That the

~~((committee))~~ department may issue the suspension order immediately without notice if the violations are or may cause substantial harm to adjacent property, persons, or public resources, or has or may result in the pollution of waters in violation of any state or federal law or rule. A suspension shall remain in effect until the violations are corrected or other directives are complied with unless declared invalid by the ~~((committee))~~ department after hearing or an appeal. The suspension order and notification, where applicable, shall specify the violations and the actions required to be undertaken to be in compliance with such laws, rules, orders, or permit conditions. The order and notification may also require remedial actions to be undertaken to restore, prevent, or correct activities or conditions which have resulted from the violations. The order and notification may be directed to the operator or owner or both.

(2) The suspension order constitutes a final and binding order unless the owner or operator to whom the order is directed requests a hearing before the ~~((committee))~~ department within fifteen days after service of the order. Such a request shall not in itself stay or suspend the order and the operator or owner shall comply with the order immediately upon service. The ~~((committee or its chairman have the authority to))~~ department may stay or suspend in whole or in part the suspension order pending a hearing if so requested. The hearing shall constitute an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act.

**Sec. 847.** RCW 78.52.467 and 1983 c 253 s 30 are each amended to read as follows:

(1) The sale, purchase, acquisition, transportation, refining, processing, or handling of illegal oil, gas, or product is prohibited. However, no penalty by way of fine may be imposed upon a person who sells, purchases, acquires, transports, refines, processes, or handles illegal oil, gas, or product unless (a) the person knows, or is put on notice of, facts indicating that illegal oil, illegal gas, or illegal product is involved, or (b) the person fails to obtain a certificate of clearance with respect to the oil, gas, or product if prescribed by rule or order of the ~~((committee))~~ department, or fails to follow any other method prescribed by an order of the ~~((committee))~~ department for the identification of the oil, gas, or product.

(2) Illegal oil, illegal gas, and illegal product are declared to be contraband and are subject to seizure and sale as provided in this section. Seizure and sale shall be in addition to all other remedies and penalties provided in this chapter for violations relating to illegal oil, illegal gas, or illegal product. If the ~~((committee))~~ department believes that any oil, gas, or product is illegal, the ~~((committee))~~ department acting through the attorney general, shall bring a civil action in rem in the superior court of the county in which the oil, gas, or product is found, to seize and sell the same, or the ~~((committee))~~ department may include such an action in rem in any suit brought for an injunction or penalty involving illegal oil, illegal gas, or illegal product. A person claiming an interest in oil,

gas, or product affected by an action in rem has the right to intervene as an interested party.

(3) Actions for the seizure and sale of illegal oil, illegal gas, or illegal product shall be strictly in rem and shall proceed in the name of the state as plaintiff against the oil, gas, or product as defendant. No bond or similar undertaking may be required of the plaintiff. Upon the filing of the petition for seizure and sale, the clerk of the court shall issue a summons, with a copy of the petition attached thereto, directed to the sheriff of the county or to another officer or person whom the court may designate, for service upon all persons having or claiming any interest in the oil, gas, or product described in the petition. The summons shall command these persons to appear and answer within twenty days after the issuance and service of the summons. These persons need not be named or otherwise identified in the summons, and the summons shall be served by posting a copy of the summons, with a copy of the petition attached, on any public bulletin board or at the courthouse of a county where the oil, gas, or product involved is located, and by posting another copy at or near the place where the oil, gas, or product is located. The posting constitutes notice of the action to all persons having or claiming any interest in the oil, gas, or product described in the petition. In addition, if the court, on a properly verified petition, or affidavit or affidavits, or oral testimony, finds that grounds for seizure and for sale exist, the court shall issue an immediate order of seizure, describing the oil, gas, or product to be seized, and directing the sheriff of the county to take the oil, gas, or product into the sheriff's actual or constructive custody and to hold the same subject to further orders of the court. The court, in the order of seizure, may direct the sheriff to deliver the oil, gas, or product seized by him or her under the order to a court-appointed agent. The agent shall give bond in an amount and with such surety as the court may direct, conditioned upon compliance with the orders of the court concerning the custody and disposition of the oil, gas, or product.

(4) Any person having an interest in oil, gas, or product described in order of seizure and contesting the right of the state to seize and sell the oil, gas, or product may obtain its release prior to sale upon furnishing to the sheriff a bond approved by the court. The bond shall be in an amount equal to one hundred fifty percent of the market value of the oil, gas, or product to be released and shall be conditioned upon either redelivery to the sheriff of the released commodity or payment to the sheriff of its market value, if and when ordered by the court, and upon full compliance with further orders of the court.

(5) If the court, after a hearing upon a petition for the seizure and sale of oil, gas, or product, finds that the oil, gas, or product is contraband, the court shall order its sale by the sheriff in the same manner and upon the same notice of sale as provided by law for the sale of personal property on execution of judgment entered in a civil action, except that the court may order that the oil, gas, or product be sold in specified lots or portions and at specified intervals. Upon sale, title to the oil, gas, or product sold shall vest in the purchaser free of

all claims, and it shall be legal oil, legal gas, or legal product in the hands of the purchaser.

(6) All proceeds, less costs of suit and expenses of sale, which are derived from the sale of illegal oil, illegal gas, or illegal product, and all amounts paid as penalties provided for by this chapter, shall be paid into the state treasury for the use of the ~~((committee))~~ department in defraying its expenses in the same manner as other funds provided by law for the use of the ~~((committee))~~ department.

**Sec. 848.** RCW 78.52.470 and 1989 c 175 s 168 are each amended to read as follows:

Any person adversely affected by any order of the ~~((committee))~~ department may, within thirty days from the effective date of such order, apply for a hearing with respect to any matter determined therein. No cause for action arising out of any order of the ~~((committee shall))~~ department accrues in any court to any person unless the person makes application for a hearing as ~~((herein))~~ provided in this section. Such application shall set forth specifically the ground on which the applicant considers the order to be unlawful or unreasonable. No party shall, in any court, urge or rely upon any ground not set forth in said application. An order made in conformity to a decision resulting from a hearing which abrogates, changes, or modifies the original order shall have the same force and effect as an original. Such hearing shall constitute an adjudicative proceeding under chapter 34.05 RCW, the Administrative Procedure Act, and shall be conducted in accordance with its provisions.

**Sec. 849.** RCW 78.52.480 and 1983 c 253 s 28 are each amended to read as follows:

In proceedings for review of an order or decision of the ~~((committee))~~ department, the ~~((committee))~~ department shall be a party to the proceedings and shall have all rights and privileges granted by this chapter to any other party to such proceedings.

**Sec. 850.** RCW 78.52.490 and 1983 c 253 s 32 are each amended to read as follows:

Within thirty days after the application for a hearing is denied, or if the application is granted, then within thirty days after the rendition of the decision on the hearing, the applicant may apply to the superior court, at the petitioner's option, for (a) Thurston county, (b) the county of petitioner's residence or place of business, or (c) in any county where the property or property rights owned by the petitioner is located for a review of such rule, regulation, order, or decision. The application for review shall be filed in the office of the clerk of the superior court of Thurston county and shall specifically state the grounds for review upon which the applicant relies and shall designate the rule, regulation, order, or decision sought to be reviewed. The applicant shall immediately serve a certified copy of said application upon the ~~((executive secretary of the committee))~~ commissioner of public lands who shall immediately notify all parties who

appeared in the proceedings before the ~~((committee))~~ department that such application for review has been filed. In the event the court determines the review is solely for the purpose of determining the validity of a rule or regulation of general applicability the court shall transfer venue to Thurston county for a review of such rule or regulation in the manner provided for in RCW ~~((34.05.538))~~ 34.05.570.

**Sec. 851.** RCW 78.52.530 and 1951 c 146 s 56 are each amended to read as follows:

Whenever it shall appear that any person is violating any provisions of this chapter, or any rule, regulation, or order made by the ~~((committee hereunder))~~ department under this chapter, and if the ~~((committee))~~ department cannot, without litigation, effectively prevent further violation, the ~~((committee))~~ department may bring suit in the name of the state against such person in the superior court in the county of the residence of the defendant, or in the county of the residence of any defendant if there be more than one defendant, or in the county where the violation is alleged to have occurred, to restrain such person from continuing such violation. In such suit the ~~((committee))~~ department may without bond obtain injunctions prohibitory and mandatory, including temporary restraining orders and preliminary injunctions, as the facts may warrant.

**Sec. 852.** RCW 78.52.540 and 1951 c 146 s 57 are each amended to read as follows:

~~((In the event the committee should))~~ If the department fails to bring suit within thirty days to enjoin any apparent violation of this chapter, or of any rule, regulation, or order made by the ~~((committee hereunder))~~ department under this chapter, then any person or party in interest adversely affected by such violation, who has requested the ~~((committee))~~ department in writing to sue, may, to prevent any or further violation, bring suit for that purpose in the superior court of any county where the ~~((committee))~~ department could have instituted such suit. If, in such suit, the court should hold that injunctive relief should be granted, then the state shall be made a party and shall be substituted for the person who brought the suit, and the injunction shall be issued as if the state had at all times been the complainant.

### OIL SPILL CONTINGENCY PLAN CORPORATION

**NEW SECTION.** **Sec. 853.** A new section is added to chapter 88.46 RCW to read as follows:

A nonprofit corporation established for the sole purpose of providing contingency plan coverage for any vessel in compliance with RCW 88.46.060 is entitled to liability protection as provided in this section. Obligations incurred by the corporation and any other liabilities or claims against the corporation may be enforced only against the assets of the corporation, and no liability for the debts or actions of the corporation exists against a director, officer, member, employee, incident commander, agent, contractor, or subcontractor of the corporation in his or her individual or representative capacity. Except as

otherwise provided in this chapter, neither the directors, officers, members, employees, incident commander, or agents of the corporation, nor the business entities by whom they are regularly employed may be held individually responsible for discretionary decisions, errors in judgment, mistakes, or other acts, either of commission or omission, that are directly related to the operation or implementation of contingency plans, other than for acts of gross negligence or willful or wanton misconduct. The corporation may insure and defend and indemnify the directors, officers, members, employees, incident commanders, and agents to the extent permitted by chapters 23B.08 and 24.03 RCW. This section does not alter or limit the responsibility or liability of any person for the operation of a motor vehicle.

### MARINE SAFETY COMMITTEES

NEW SECTION. **Sec. 854.** A new section is added to chapter 88.46 RCW to read as follows:

The administrator may appoint ad hoc, advisory marine safety committees to solicit recommendations and technical advice concerning vessel traffic safety. The office may implement recommendations made in regional marine safety plans that are approved by the office and over which the office has authority. If federal authority or action is required to implement the recommendations, the office may petition the appropriate agency or the Congress.

### SCIENTIFIC ADVISORY BOARD FOR THE OIL SPILL COMPENSATION SCHEDULE

**Sec. 855.** RCW 90.48.366 and 1992 c 73 s 28 are each amended to read as follows:

By July 1, 1991, the department, in consultation with the departments of fisheries, wildlife, and natural resources, and the parks and recreation commission, shall adopt rules establishing a compensation schedule for the discharge of oil in violation of this chapter and chapter 90.56 RCW. (~~The department shall establish a scientific advisory board to assist in establishing the compensation schedule.~~) The amount of compensation assessed under this schedule shall be no less than one dollar per gallon of oil spilled and no greater than fifty dollars per gallon of oil spilled. The compensation schedule shall reflect adequate compensation for unquantifiable damages or for damages not quantifiable at reasonable cost for any adverse environmental, recreational, aesthetic, or other effects caused by the spill and shall take into account:

- (1) Characteristics of any oil spilled, such as toxicity, dispersibility, solubility, and persistence, that may affect the severity of the effects on the receiving environment, living organisms, and recreational and aesthetic resources;
- (2) The sensitivity of the affected area as determined by such factors as: (a) The location of the spill; (b) habitat and living resource sensitivity; (c) seasonal distribution or sensitivity of living resources; (d) areas of recreational use or aesthetic importance; (e) the proximity of the spill to important habitats for birds, aquatic mammals, fish, or to species listed as threatened or endangered under



state or federal law; (f) significant archaeological resources as determined by the office of archaeology and historic preservation; and (g) other areas of special ecological or recreational importance, as determined by the department. If the department has adopted rules for a compensation table prior to July 1, 1992, the sensitivity of significant archaeological resources shall only be included among factors to be used in the compensation table when the department revises the rules for the compensation table after July 1, 1992; and

(3) Actions taken by the party who spilled oil or any party liable for the spill that: (a) Demonstrate a recognition and affirmative acceptance of responsibility for the spill, such as the immediate removal of oil and the amount of oil removed from the environment; or (b) enhance or impede the detection of the spill, the determination of the quantity of oil spilled, or the extent of damage, including the unauthorized removal of evidence such as injured fish or wildlife.

### TASK FORCE ON STATE-WIDE EVALUATION OF IRRIGATED AREAS

**Sec. 856.** RCW 90.54.190 and 1989 c 348 s 11 are each amended to read as follows:

(1) ~~((The department of ecology may establish a task force to assist in a state-wide evaluation of irrigated areas, not to exceed six months in duration, to determine the associated impacts of efficiency measures, efficiency opportunities, and local interest.))~~ The department ~~((and the task force))~~ shall establish a list of basin and stream efficiency initiatives and select an irrigation area for a voluntary demonstration project.

(2) Prior to conducting conservation assessments and developing conservation plans, the department of ecology shall secure technical and financial assistance from the bureau of reclamation to reduce the costs to the state to the extent possible.

(3) A "conservation assessment" as described in this section shall be conducted before a demonstration project to increase the efficiency of irrigated agriculture is undertaken for an irrigated area, a basin, subbasin, or stream. The conservation assessment should:

(a) Evaluate existing patterns, including current reuse of return flows, and priorities of water use;

(b) Assess conflicting needs for future water allocations and claims to reserved rights;

(c) Evaluate hydrologic characteristics of surface and ground water including return flow characteristics;

(d) Assess alternative efficiency measures;

(e) Determine the likely net water savings of efficiency improvements including the amount and timing of water that would be saved and potential benefits and impacts to other water uses and resources including effects on artificial recharge of ground water and wetland impacts;

(f) Evaluate the full range of costs and benefits that would accrue from various measures; and

(g) Evaluate the potential for integrating conservation efforts with operation of existing or potential storage facilities.

(4) The conservation assessment shall be used as the basis for development of a demonstration conservation plan to rank conservation elements based on relative costs, benefits, and impacts. It shall also estimate the costs of implementing the plan and propose a specific basis for cost share distributions.

The demonstration conservation plan shall be developed jointly by the department and a conservation plan formulation committee consisting of representatives of a cross-section of affected local water users, members of the public, and tribal governments. Other public agencies with expertise in water resource management may participate as nonvoting committee members. A proposed demonstration conservation plan may be approved by the department and the committee only after public comment has been received.

(5) The department shall reimburse any members ~~((of the task force in subsection (2) [(1)] of this section or))~~ of the committee in subsection (4) of this section who are not representing governmental agencies or entities for their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

**NEW SECTION. Sec. 857.** Broker's Trust Account Board. RCW 18.85.500 and 1987 c 513 s 8 are each repealed.

**NEW SECTION. Sec. 858.** Washington State Heritage Council. The following acts or parts of acts are each repealed:

- (1) RCW 27.34.030 and 1983 c 91 s 3;
- (2) RCW 27.34.040 and 1993 c 101 s 11 & 1983 c 91 s 4; and
- (3) RCW 27.34.050 and 1983 c 91 s 5.

**NEW SECTION. Sec. 859.** Supply Management Advisory Board. RCW 43.19.1902 and 1979 c 151 s 97, 1975-'76 2nd ex.s. c 21 s 3, 1967 ex.s. c 104 s 3, & 1965 c 8 s 43.19.1902 are each repealed.

**NEW SECTION. Sec. 860.** Motor Vehicle Advisory Committee. RCW 43.19.556 and 1989 c 57 s 4 are each repealed.

**NEW SECTION. Sec. 861.** Ecological Commission. The following acts or parts of acts are each repealed:

- (1) RCW 43.21A.170 and 1989 1st ex.s. c 9 s 217, 1988 c 36 s 15, 1985 c 466 s 50, 1979 c 141 s 68, & 1970 ex.s. c 62 s 17;
- (2) RCW 43.21A.180 and 1984 c 287 s 76, 1975-'76 2nd ex.s. c 34 s 100, & 1970 ex.s. c 62 s 18;
- (3) RCW 43.21A.190 and 1988 c 127 s 24 & 1970 ex.s. c 62 s 19;
- (4) RCW 43.21A.200 and 1977 c 75 s 47 & 1970 ex.s. c 62 s 20; and
- (5) RCW 43.21A.210 and 1970 ex.s. c 62 s 21.

**NEW SECTION. Sec. 862.** Nuclear Waste Advisory Council. RCW 43.200.050 and 1989 c 322 s 4, 1984 c 161 s 6, & 1983 1st ex.s. c 19 s 5 are each repealed.

**NEW SECTION. Sec. 863.** Athletic Health Care and Training Council. The following acts or parts of acts are each repealed:

- (1) RCW 43.230.010 and 1990 c 33 s 583 & 1984 c 286 s 2;
- (2) RCW 43.230.020 and 1984 c 286 s 3;
- (3) RCW 43.230.030 and 1984 c 286 s 4;
- (4) RCW 43.230.040 and 1984 c 286 s 5; and
- (5) 1984 c 286 s 13 (uncodified).

**NEW SECTION. Sec. 864.** Insurance Advisory Examining Board. RCW 48.17.135 and 1984 c 287 s 96, 1975-'76 2nd ex.s. c 34 s 142, & 1967 c 150 s 14 are each repealed.

**NEW SECTION. Sec. 865.** Right-to-Know Advisory Council. The following acts or parts of acts are each repealed:

- (1) RCW 49.70.120 and 1987 c 24 s 1, 1985 c 409 s 5, & 1984 c 289 s 17; and
- (2) RCW 49.70.130 and 1984 c 289 s 18.

**NEW SECTION. Sec. 866.** Winter Recreation Commission. The following acts or parts of acts are each repealed:

- (1) RCW 67.34.011 and 1987 c 526 s 1; and
- (2) RCW 67.34.021 and 1987 c 526 s 2.

**NEW SECTION. Sec. 867.** Science Advisory Board. RCW 70.94.039 and 1991 c 199 s 314 are each repealed.

**NEW SECTION. Sec. 868.** Korean War Veterans' Memorial Advisory Committee. The following acts or parts of acts are each repealed:

- (1) RCW 73.40.020 and 1984 c 81 s 2; and
- (2) RCW 73.40.050 and 1989 c 235 s 2.

**NEW SECTION. Sec. 869.** Oil and Gas Conservation Committee. RCW 78.52.020 and 1988 c 128 s 49, 1983 c 253 s 31, 1971 ex.s. c 180 s 7, 1961 c 300 s 7, & 1951 c 146 s 4 are each repealed.

**NEW SECTION. Sec. 870.** Washington State Maritime Commission. The following acts or parts of acts are each repealed, effective July 1, 1995:

- (1) RCW 88.44.005 and 1990 c 117 s 1;
- (2) RCW 88.44.010 and 1992 c 73 s 15, 1991 c 200 s 901, & 1990 c 117 s 2;
- (3) RCW 88.44.020 and 1991 c 200 s 902 & 1990 c 117 s 3;
- (4) RCW 88.44.030 and 1991 c 200 s 903 & 1990 c 117 s 4;
- (5) RCW 88.44.040 and 1991 c 200 s 904 & 1990 c 117 s 5;
- (6) RCW 88.44.080 and 1991 c 200 s 905 & 1990 c 117 s 9;
- (7) RCW 88.44.090 and 1990 c 117 s 10;

(8) RCW 88.44.100 and 1992 c 73 s 16 & 1990 c 117 s 11;

(9) RCW 88.44.110 and 1992 c 73 s 17, 1991 c 200 s 906, & 1990 c 117 s 12;

(10) RCW 88.44.120 and 1990 c 117 s 13;

(11) RCW 88.44.130 and 1990 c 117 s 14;

(12) RCW 88.44.140 and 1990 c 117 s 15;

(13) RCW 88.44.150 and 1990 c 117 s 16;

(14) RCW 88.44.160 and 1991 c 200 s 907 & 1990 c 117 s 17;

(15) RCW 88.44.170 and 1990 c 117 s 18;

(16) RCW 88.44.180 and 1990 c 117 s 19;

(17) RCW 88.44.190 and 1990 c 117 s 20;

(18) RCW 88.44.200 and 1990 c 117 s 21;

(19) RCW 88.44.210 and 1990 c 117 s 22;

(20) RCW 88.44.220 and 1990 c 117 s 23;

(21) RCW 88.44.900 and 1990 c 117 s 24; and

(22) RCW 88.44.901 and 1990 c 117 s 25.

**NEW SECTION. Sec. 871.** Regional Marine Safety Committees. RCW 88.46.110 and 1992 c 73 s 24 & 1991 c 200 s 424 are each repealed.

**NEW SECTION. Sec. 872.** The legislature declares there has been an excessive proliferation of boards and commissions within state government. These boards and commissions are often created without legislative review or input and without an assessment of whether there is a resulting duplication of purpose or process. Once created, they frequently duplicate the duties of existing governmental entities, create additional expense, and obscure responsibility. It has been difficult to control the growth of boards and commissions because of the many special interests involved. Accordingly, the legislature establishes the process in this chapter to eliminate redundant and obsolete boards and commissions and to restrict the establishment of new boards and commissions.

**NEW SECTION. Sec. 873.** A new section is added to chapter 43.41 RCW to read as follows:

(1) The governor shall conduct a review of all of the boards and commissions identified under section 874 of this act and, by January 8th of every odd-numbered year, submit to the legislature a report recommending which boards and commissions should be terminated or consolidated based upon the criteria set forth in subsection (3) of this section. The report must state which of the criteria were relied upon with respect to each recommendation. The governor shall submit an executive request bill by January 8th of every odd-numbered year to implement the recommendations by expressly terminating the appropriate boards and commissions and by providing for the transfer of duties and obligations under this section. The governor shall accept and review with special attention recommendations made, not later than June 1st of each even-numbered year, by the standing committees of the legislature in determining whether to include any board or commission in the report and bill required by this section.

(2) In addition to terminations and consolidations under subsection (1) of this section, the governor may recommend the transfer of duties and obligations from a board or commission to another existing state entity.

(3) In preparing his or her report and legislation, the governor shall make an evaluation based upon answers to the questions set forth in this subsection. The governor shall give these criteria priority in the order listed.

(a) Has the mission of the board or commission been completed or ceased to be critical to effective state government?

(b) Does the work of the board or commission directly affect public safety, welfare, or health?

(c) Can the work of the board or commission be effectively done by another state agency without adverse impact on public safety, welfare, or health?

(d) Will termination of the board or commission have a significant adverse impact on state revenue because of loss of federal funds?

(e) Will termination of the board or commission save revenues, be cost neutral, or result in greater expenditures?

(f) Is the work of the board or commission being done by another board, commission, or state agency?

(g) Could the work of the board or commission be effectively done by a nonpublic entity?

(h) Will termination of the board or commission result in a significant loss of expertise to state government?

(i) Will termination of the board or commission result in operational efficiencies that are other than fiscal in nature?

(j) Could the work of the board or commission be done by an ad hoc committee?

**NEW SECTION. Sec. 874.** The boards and commissions to be reviewed by the governor must be all entities that are required to be included in the list prepared by the office of financial management under RCW 43.88.505, other than entities established under: (1) Constitutional mandate; (2) court order or rule; (3) requirement of federal law; or (4) requirement as a condition of the state or a local government receiving federal financial assistance if, in the judgment of the governor, no other state agency, board, or commission would satisfy the requirement.

**NEW SECTION. Sec. 875.** A new section is added to chapter 43.41 RCW to read as follows:

A new board or commission not established or required in statute that must be included in the report required by RCW 43.88.505 may not be established without the express approval of the director of financial management. The director shall, by January 8th of each year, submit to the legislature a list of those boards and commissions that were requested for approval and those that were approved during the preceding calendar year.

**NEW SECTION.** Sec. 876. A new section is added to chapter 43.41 RCW to read as follows:

When acting on a request to establish a new board or commission under section 875 of this act, the director of the office of financial management shall consider the following criteria giving priority in the order listed:

- (1) If approval is critical to public safety, health, or welfare or to the effectiveness of state government;
- (2) If approval will not result in duplication of the work or responsibilities of another governmental agency;
- (3) If approval will not have a significant impact on state revenues;
- (4) If approval is for a limited duration or on an ad hoc basis;
- (5) If the work of the board or commission could be effectively done by a nonpublic entity;
- (6) If approval will result in significant enhancement of expertise in state government; and
- (7) If approval will result in operational efficiencies other than fiscal savings.

**NEW SECTION.** Sec. 877. (1) Sections 872 through 876 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

**\*NEW SECTION.** Sec. 878. *The Washington traffic safety commission is hereby abolished and its powers, duties, and functions are hereby transferred to the Washington state patrol.*

\*Sec. 878 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 879. *All reports, documents, surveys, books, records, files, papers, or written material in the possession of the Washington traffic safety commission shall be delivered to the custody of the Washington state patrol. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the Washington traffic safety commission shall be made available to the Washington state patrol. All funds, credits, or other assets held by the Washington traffic safety commission shall be assigned to the Washington state patrol.*

*Any appropriations made to the Washington traffic safety commission shall, on the effective date of this section, be transferred and credited to the Washington state patrol.*

*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.*

\*Sec. 879 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 880. All employees of the Washington traffic safety commission are transferred to the jurisdiction of the Washington state patrol. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington state patrol 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.*

\*Sec. 880 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 881. All rules and all pending business before the Washington traffic safety commission shall be continued and acted upon by the Washington state patrol. All existing contracts and obligations shall remain in full force and shall be performed by the Washington state patrol.*

\*Sec. 881 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 882. The transfer of the powers, duties, functions, and personnel of the Washington traffic safety commission shall not affect the validity of any act performed prior to the effective date of this section.*

\*Sec. 882 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 883. If apportionments of budgeted funds are required because of the transfers directed by sections 879 through 882 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.*

\*Sec. 883 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 884. Nothing contained in sections 878 through 883 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.*

\*Sec. 884 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 885. A new section is added to chapter 43.06 RCW to read as follows:*

*The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (P.L. 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 and in so*

*doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. The governor shall be assisted in these duties and responsibilities by the Washington state patrol.*

\*Sec. 885 was vetoed, see message at end of chapter.

***\*NEW SECTION.*** Sec. 886. A new section is added to chapter 43.06 RCW to read as follows:

*The governor shall be assisted in the duties and responsibilities under section 885 of this act by the advisory committee on traffic safety. The advisory committee on traffic safety shall be composed of the governor as chair, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the Washington state association of counties to be appointed by the governor, a representative of the judiciary to be appointed by the governor, and four public citizens representing traffic safety interests to be appointed by the governor. In addition, appointments to any vacancies among appointee members shall be as in the case of original appointment.*

*The governor or any advisory committee member except those appointed by the governor under this section may designate an employee of his or her office or agency to act on his or her behalf during the absence of the governor or member at one or more of the meetings of the committee. The vote of the designee shall have the same effect as if cast by the member if the designation is in writing and is presented to the person presiding at the meetings included within the designation.*

*The governor may designate a member to preside during the governor's absence.*

*The chief of the state patrol shall be responsible for convening the committee and shall serve as secretary.*

\*Sec. 886 was vetoed, see message at end of chapter.

***\*NEW SECTION.*** Sec. 887. A new section is added to chapter 43.06 RCW to read as follows:

*The advisory committee on traffic safety shall provide assistance and guidance in the development of the highway safety plan required pursuant to the Highway Safety Act of 1966; develop recommendations for the creation, revision, or enforcement of traffic safety laws; promote programs to improve traffic safety; and advise and assist the governor and the state patrol, as requested, in carrying out their duties and responsibilities pertaining to the state's traffic safety program. Staff support for the committee shall be provided by the state patrol. The committee shall meet at least one time per year.*

\*Sec. 887 was vetoed, see message at end of chapter.



**\*NEW SECTION.** Sec. 888. A new section is added to chapter 43.43 RCW to read as follows:

*In addition to other responsibilities set forth in this chapter the state patrol shall:*

*(1) Assist the governor to carry out duties and responsibilities pertaining to the traffic safety program of the state and the Highway Safety Act of 1966 (P.L. 89-564; 80 Stat. 731) as provided in section 879 of this act;*

*(2) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 for participation in the aims and programs and purposes of that act;*

*(3) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;*

*(4) Provide staff support to the advisory committee on traffic safety as provided under section 887 of this act;*

*(5) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington traffic safety commission;*

*(6) Carry out such other responsibilities as may be consistent with section 889 of this act.*

\*Sec. 888 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 889. A new section is added to chapter 43.43 RCW to read as follows:

*The governor's traffic safety program as provided in section 885 of this act shall be located in the office of the chief. As the agency carrying out the governor's traffic safety program, the Washington state patrol shall have the following responsibilities: To find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local levels in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed under the federal Highway Safety Act of 1966.*

\*Sec. 889 was vetoed, see message at end of chapter.

**\*NEW SECTION.** Sec. 890. A new section is added to chapter 43.43 RCW to read as follows:

*The Washington state patrol shall submit a report each biennium outlining programs planned and steps taken toward improving traffic safety to the chair of the legislative transportation committee.*

\*Sec. 890 was vetoed, see message at end of chapter.

**\*NEW SECTION.** *Sec. 891. A new section is added to chapter 43.43 RCW to read as follows:*

*The Washington state patrol shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of intoxicating liquor or any drug.*

\*Sec. 891 was vetoed, see message at end of chapter.

**\*Sec. 892.** *RCW 28A.170.050 and 1987 c 518 s 209 are each amended to read as follows:*

*The superintendent of public instruction shall appoint a substance abuse advisory committee comprised of: Representatives of certificated and noncertificated staff; administrators; parents; students; school directors; the bureau of alcohol and substance abuse within the department of social and health services; the ~~((traffic safety commission))~~ Washington state patrol; and county coordinators of alcohol and drug treatment. The committee shall advise the superintendent on matters of local program development, coordination, and evaluation.*

\*Sec. 892 was vetoed, see message at end of chapter.

**\*Sec. 893.** *RCW 43.03.028 and 1993 c 281 s 45 and 1993 c 101 s 14 are each reenacted and amended to read as follows:*

*(1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.*

*(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:*

*The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical*

*society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; (~~the traffic safety commission;~~) the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian-American affairs; the state board for volunteer fire fighters; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.*

*The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.*

*(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060.*

*\*Sec. 893 was vetoed, see message at end of chapter.*

*\*Sec. 894. RCW 43.43.390 and 1991 c 214 s 1 are each amended to read as follows:*

*Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.*

*A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with (~~the traffic safety commission and with~~) bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills.*

*\*Sec. 894 was vetoed, see message at end of chapter.*

*\*Sec. 895. RCW 43.70.410 and 1990 c 270 s 3 are each amended to read as follows:*

*As used in RCW 43.70.400 through 43.70.440, the term "head injury" means traumatic brain injury.*

*A head injury prevention program is created in the department of health. The program's functions may be integrated with those of similar programs to*

*promote comprehensive, integrated, and effective health promotion and disease prevention.*

*In consultation with the (~~traffic safety commission~~) Washington state patrol, the department shall, directly or by contract, identify and coordinate public education efforts currently underway within state government and among private groups to prevent traumatic brain injury, including, but not limited to, bicycle safety, pedestrian safety, bicycle passenger seat safety, motorcycle safety, motor vehicle safety, and sports safety. If the department finds that programs are not available or not in use, it may, within funds appropriated for the purpose, provide grants to promote public education efforts. Grants may be awarded only after recipients have demonstrated coordination with relevant and knowledgeable groups within their communities, including at least schools, brain injury support organizations, hospitals, physicians, traffic safety specialists, police, and the public. The department may accept grants, gifts, and donations from public or private sources to use to carry out the head injury prevention program.*

*The department may assess or contract for the assessment of the effectiveness of public education efforts coordinated or initiated by any agency of state government. Agencies are directed to cooperate with assessment efforts by providing access to data and program records as reasonably required. The department may seek and receive additional funds from the federal government or private sources for assessments. Assessments shall contain findings and recommendations that will improve the effectiveness of public education efforts. These findings shall be distributed among public and private groups concerned with traumatic brain injury prevention.*

*\*Sec. 895 was vetoed, see message at end of chapter.*

*\*Sec. 896. RCW 43.70.420 and 1990 c 270 s 4 are each amended to read as follows:*

*The department of health, the department of licensing, and the (~~traffic safety commission~~) Washington state patrol shall jointly prepare information for driver license manuals, driver education programs, and driving tests to increase driver awareness of pedestrian safety, to increase driver skills in avoiding pedestrian and motor vehicle accidents, and to determine drivers' abilities to avoid pedestrian motor vehicle accidents.*

*\*Sec. 896 was vetoed, see message at end of chapter.*

*\*Sec. 897. RCW 44.40.070 and 1988 c 167 s 10 are each amended to read as follows:*

*Prior to October 1st of each even-numbered year all state agencies whose major programs consist of transportation activities, including the department of transportation, the utilities and transportation commission, the transportation improvement board, the Washington state patrol, the department of licensing, (~~the traffic safety commission,~~) the county road administration board, and the board of pilotage commissioners, shall adopt or revise, after consultation with the legislative transportation committee, a comprehensive six-*

*year program and financial plan for all transportation activities under each agency's jurisdiction.*

*The comprehensive six-year program and financial plan shall state the general objectives and needs of each agency's major transportation programs, including workload and performance estimates.*

*\*Sec. 897 was vetoed, see message at end of chapter.*

*\*Sec. 898. RCW 46.01.030 and 1990 c 250 s 14 are each amended to read as follows:*

*The department shall be responsible for administering and recommending the improvement of the motor vehicle laws of this state relating to:*

- (1) driver examining and licensing;*
- (2) driver improvement;*
- (3) driver records;*
- (4) financial responsibility;*
- (5) certificates of ownership;*
- (6) certificates of license registration and license plates;*
- (7) proration and reciprocity;*
- (8) liquid fuel tax collections;*
- (9) licensing of dealers, motor vehicle transporters, motor vehicle wreckers, for hire vehicles, and drivers' schools;*
- (10) general highway safety promotion in cooperation with the Washington state patrol (~~and traffic safety commission~~);*
- (11) such other activities as the legislature may provide.*

*\*Sec. 898 was vetoed, see message at end of chapter.*

*\*Sec. 899. RCW 46.52.120 and 1993 c 501 s 12 are each amended to read as follows:*

*(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident. The chief of the Washington state patrol shall furnish the index cross-reference record to the director, with reference to each driver involved in the reported accidents.*

*(2) The records shall be for the confidential use of the director, the chief of the Washington state patrol, (~~the director of the Washington traffic safety commission~~), and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be offered as evidence in any court except in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.*

*(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the*

*privilege of operating a motor vehicle. Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.*

*\*Sec. 899 was vetoed, see message at end of chapter.*

*\*Sec. 900. RCW 46.82.300 and 1984 c 287 s 93 are each amended to read as follows:*

*(1) The director shall be assisted in the duties and responsibilities of this chapter by the driver instructors' advisory committee, consisting of five members. Members of the advisory committee shall be appointed by the director for two-year terms and shall consist of a representative of the driver training schools, a representative of the driving instructors (who shall not be from the same school as the school member), a representative of the superintendent of public instruction, a representative of the department of licensing, and a representative from the Washington state ((~~traffic safety commission~~)) patrol. Members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060. A member who is receiving a salary from the state shall not receive compensation other than travel expenses incurred in such service.*

*(2) The advisory committee shall meet at least semiannually and shall have additional meetings as may be called by the director. The director or the director's representative shall attend all meetings of the advisory committee and shall serve as chairman.*

*(3) Duties of the advisory committee shall be to:*

*(a) Advise and confer with the director or the director's representative on matters pertaining to the establishment of rules necessary to carry out this chapter;*

*(b) Review violations of this chapter and to recommend to the director appropriate enforcement or disciplinary action as provided in this chapter;*

*(c) Review and update when necessary a curriculum consisting of a list of items of knowledge and the processes of driving a motor vehicle specifying the minimum requirements adjudged necessary in teaching a proper and adequate course of driver education; and*

*(d) Prepare the examination for a driver instructor's certificate and review examination results at least once each calendar year for the purpose of updating and revising examination standards.*

*\*Sec. 900 was vetoed, see message at end of chapter.*

*\*Sec. 901. RCW 46.90.010 and 1993 c 400 s 2 are each amended to read as follows:*

*In consultation with the chief of the Washington state patrol ((~~and the traffic safety commission~~)), the director shall adopt in accordance with chapter 34.05 RCW a model traffic ordinance for use by any city, town, or county. The addition of any new section to, or amendment or repeal of any section in,*

*the model traffic ordinance is deemed to amend any city, town, or county, ordinance which has adopted by reference the model traffic ordinance or any part thereof, and it shall not be necessary for the legislative authority of any city, town, or county to take any action with respect to such addition, amendment, or repeal notwithstanding the provisions of RCW 35.21.180, 35A.12.140, 35A.13.180, and 36.32.120(7).*

\*Sec. 901 was vetoed, see message at end of chapter.

*\*Sec. 902. RCW 47.01.250 and 1990 c 266 s 5 are each amended to read as follows:*

*The chief of the Washington state patrol, (~~the director of the traffic safety commission,~~) the executive director of the county road administration board, and the director of licensing are designated as official consultants to the transportation commission so that the goals and activities of their respective agencies which relate to transportation are fully coordinated with other related responsibilities of the department of transportation. In this capacity, the chief of the Washington state patrol, (~~the director of the traffic safety commission,~~) the executive director of the county road administration board, and the director of licensing shall consult with the transportation commission and the secretary of transportation on the implications and impacts on the transportation related functions and duties of their respective agencies of any proposed comprehensive transportation plan, program, or policy.*

*In order to develop fully integrated, balanced, and coordinated transportation plans, programs, and budgets the chief of the Washington state patrol, (~~the director of the traffic safety commission,~~) the executive director of the county road administration board, and the director of licensing shall consult with the secretary of transportation on the matter of relative priorities during the development of their respective agencies' plans, programs, and budgets as they pertain to transportation activities. The secretary of transportation shall provide written comments to the governor and the legislature on the extent to which the state patrol's, (~~the traffic safety commission's,~~) the county road administration board's, and the department of licensing's final plans, programs, and budgets are compatible with the priorities established in the department of transportation's final plans, programs, and budgets.*

\*Sec. 902 was vetoed, see message at end of chapter.

*\*NEW SECTION. Sec. 903. The following acts or parts of acts are each repealed:*

- (1) RCW 43.59.010 and 1967 ex.s. c 147 s 1;*
- (2) RCW 43.59.020 and 1967 ex.s. c 147 s 2;*
- (3) RCW 43.59.030 and 1991 c 3 s 298, 1982 c 30 s 1, 1979 c 158 s 105, 1971 ex.s. c 85 s 7, 1969 ex.s. c 105 s 1, & 1967 ex.s. c 147 s 3;*
- (4) RCW 43.59.040 and 1983 1st ex.s. c 14 s 1 & 1967 ex.s. c 147 s 4;*
- (5) RCW 43.59.050 and 1975-'76 2nd ex.s. c 34 s 120 & 1967 ex.s. c 147 s 6;*
- (6) RCW 43.59.060 and 1967 ex.s. c 147 s 7;*

- (7) *RCW 43.59.070 and 1967 ex.s. c 147 s 8;*
- (8) *RCW 43.59.080 and 1967 ex.s. c 147 s 9;*
- (9) *RCW 43.59.130 and 1987 c 505 s 31, 1971 ex.s. c 195 s 5, & 1967 ex.s. c 147 s 14; and*
- (10) *RCW 43.59.140 and 1991 c 290 s 4 & 1983 c 165 s 42.*

\*Sec. 903 was vetoed, see message at end of chapter.

NEW SECTION. **Sec. 904.** 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. 905.** Headings and captions used in this act constitute no part of the law.

NEW SECTION. **Sec. 906.** This act takes effect July 1, 1994.

Passed the House March 14, 1994.

Passed the Senate March 14, 1994.

Approved by the Governor April 6, 1994, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State April 6, 1994.

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

"I am returning herewith, without my approval as to sections 878 through 903, Engrossed Substitute House Bill No. 2676, entitled:

"AN ACT Relating to the restructuring of boards, committees, commissions, and councils;"

Engrossed Substitute House Bill No. 2676 eliminates and consolidates 49 boards and commissions. Sections 878 through 903 of the bill would abolish the Washington Traffic Safety Commission and transfer its functions to the Washington State Patrol. While I generally favor consolidating small single purpose commissions into larger agencies for efficiency purposes, I am not convinced this particular merger is advisable at this time.

Any merger of these functions should consider alternatives that balance opportunities for more efficient administration of grant funds, fair and equitable grant distribution, program effectiveness, and active involvement and support of the traffic safety community. To ensure that these factors are evaluated in any future decision regarding the location of traffic safety functions, I have directed the Office of Financial Management to work with the Traffic Safety Commission, the legislature, and the traffic safety community to review organizational alternatives for traffic safety functions. This review will be conducted as part of our overall evaluation of boards and commissions required by sections 872 through 876 of Engrossed Substitute House Bill No. 2676.

With the exception of sections 878 through 903, Engrossed Substitute House Bill No. 2676 is approved."

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## CHAPTER 10

[Senate Bill 6606]

### BUSINESS AND OCCUPATION TAX GENERAL SURTAX REDUCTION

AN ACT Relating to repealing the general business and occupation surtax under RCW 82.04.2201; amending RCW 82.04.2201; and providing an effective date.

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



**Sec. 1.** RCW 82.04.2201 and 1993 sp.s. c 25 s 204 are each amended to read as follows:

There is levied and shall be collected for the period July 1, 1993, through June 30, 1997, from every person for the act or privilege of engaging in business activities, as a part of the tax imposed under RCW 82.04.220 through 82.04.280 and 82.04.290(3), except RCW 82.04.250(1) and 82.04.260(15), an additional tax equal to ~~((6.5))~~ 4.5 percent multiplied by the tax payable under those sections.

To facilitate collection of these additional taxes, the department of revenue is authorized to adjust the basic rates of persons to which this section applies in such manner as to reflect the amount to the nearest one-thousandth of one percent of the additional tax hereby imposed, adjusting ten-thousandths equal to or greater than five ten-thousandths to the greater thousandth.

NEW SECTION. **Sec. 2.** This act shall take effect January 1, 1995.

Passed the Senate March 14, 1994.

Passed the House March 14, 1994.

Approved by the Governor April 6, 1994.

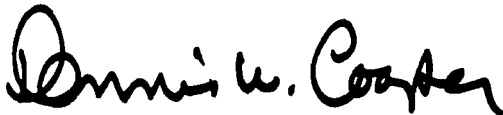
Filed in Office of Secretary of State April 6, 1994.

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## AUTHENTICATION

I, Dennis W. Cooper, 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 1993 regular and first special sessions (53rd Legislature), chapters 241 through 309, and 1 through 10, 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 10th day of May, 1994.

A handwritten signature in black ink that reads "Dennis W. Cooper". The signature is written in a cursive style with a large, prominent initial "D".

DENNIS W. COOPER  
Code Reviser

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(For regular and first special sessions, 1994)

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## BILL NO. TO CHAPTER NO. OF 1994 STATUTES

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"EI" Denotes 1994 1st special sess.

"PV" Denotes partial veto by Governor [ 2515 ]



## BILL NO. TO CHAPTER NO. OF 1994 STATUTES

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"E1" Denotes 1994 1st special sess.

"PV" Denotes partial veto by Governor [ 2517 ]

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"E1" Denotes 1994 1st special sess.

"PV" Denotes partial veto by Governor [ 2518 ]



## RCW SECTIONS AFFECTED BY 1994 STATUTES

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9.46.260	AMD	218	16	10.19.130	REP 271 701
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9A.72.090	AMD	271	202	11.40.013	AMD 221 26
9A.72.100	AMD	271	203	11.40.015	AMD 221 27
9A.72.110	AMD	271	204	11.40.040	AMD 221 28
9A.72.120	AMD	271	205	11.40.080	AMD 221 29
9A.76.020	AMD	196	1	11.48.010	AMD 221 30
9A.82.010	REMD	218	17	11.56.015	REP 221 72
10.01.160	AMD	192	1	11.56.050	AMD 221 49

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RCW	CH.	SEC.	RCW	CH.	SEC.
11.56.140	REP	221			526
11.56.150	REP	221			532
11.56.160	REP	221			545
11.56.170	REP	221			
11.62.005	AMD	21	546		
11.68.010	AMD	221	13.40.020	AMD	7 E1 520
11.92.180	AMD	68	13.40.020	AMD	261 18
11.94	ADD	221	13.40.020	AMD	271 803
11.96.009	AMD	221	13.40.0354	AMD	7 E1 521
11.96.020	AMD	221	13.40.0357	AMD	7 E1 522
11.96.050	AMD	221	13.40.070	AMD	7 E1 543
11.96.060	AMD	221	13.40.080	AMD	7 E1 544
11.96.070	AMD	221	13.40.160	AMD	7 E1 523
11.96.080	AMD	221	13.40.185	AMD	7 E1 524
11.96.090	AMD	221	13.40.190	AMD	7 E1 528
11.96.100	AMD	221	13.40.210	AMD	7 E1 527
11.96.110	AMD	221	13.40.215	AMD	78 1
11.96.130	AMD	221	13.40.215	AMD	129 6
11.96.140	AMD	221	13.40.220	AMD	7 E1 529
11.96.160	AMD	221	13.40.265	AMD	7 E1 435
11.96.170	AMD	221	13.40.300	AMD	7 E1 530
11.96.180	AMD	221	13.50.010	AMD	7 E1 541
11.98.200	AMD	221	13.64.060	AMD	7 E1 436
11.98.240	AMD	221	14.08.304	AMD	223 4
11.100.035	AMD	221	15.04.400	AMD	46 9
11.102.010	AMD	92	15.04.402	AMD	46 10
11.110.073	AMD	92	15.17.100	AMD	67 1
12.40.800	AMD	32	15.17.210	AMD	67 2
13	ADD	152	15.24.070	AMD	134 1
13.04.021	AMD	7 E1	15.24.086	AMD	164 1
13.04.030	AMD	7 E1	15.30.060	AMD	23 1
13.16	ADD	7 E1	15.32.010	AMD	143 102
13.32A.040	AMD	304	15.32.010	RECD	143 514
13.32A.050	AMD	7 E1	15.32.051	REP	143 513
13.32A.060	AMD	7 E1	15.32.060	REP	143 513
13.32A.080	AMD	7 E1	15.32.070	REP	143 513
13.32A.130	AMD	7 E1	15.32.080	REP	143 513
13.34.030	AMD	288	15.32.090	REP	143 513
13.34.100	AMD	110	15.32.100	AMD	143 204
13.34.120	AMD	288	15.32.100	RECD	143 514
13.34.130	AMD	288	15.32.110	AMD	143 203
13.34.145	AMD	288	15.32.110	RECD	143 514
13.34.231	AMD	288	15.32.120	REP	143 513
13.34.232	AMD	288	15.32.130	REP	143 513
13.34.233	AMD	288	15.32.140	REP	143 513
13.34.234	AMD	288	15.32.150	REP	143 513
13.34.236	AMD	288	15.32.160	AMD	143 303
13.40	ADD	7 E1	15.32.160	RECD	143 514
			15.32.220	REP	143 513
			15.32.250	REP	143 513

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RCW	CH.	SEC.	RCW	CH.	SEC.
15.32.260	REP	143	513	15.36	ADD 143 101
15.32.330	REP	143	513		
15.32.340	REP	143	513	202	
15.32.360	REP	143	513		
15.32.380	REP	143	513	205	
15.32.410	RECD	143	514		208
15.32.420	RECD	143	514		
15.32.430	REP	143	513	501-	
15.32.440	REP	143	513		503
15.32.450	AMD	143	508	15.36.005	RECD 143 514
15.32.450	RECD	143	514	15.36.011	AMD 143 103
15.32.460	RECD	143	514	15.36.011	RECD 143 514
15.32.490	REP	143	513	15.36.020	REP 143 513
15.32.500	REP	143	513	15.36.030	REP 143 513
15.32.510	REP	143	513	15.36.040	REP 143 513
15.32.520	REP	143	513	15.36.055	REP 143 513
15.32.530	AMD	143	304	15.36.060	REP 143 513
15.32.530	RECD	143	514	15.36.070	AMD 143 302
15.32.540	REP	143	513	15.36.070	RECD 143 514
15.32.550	RECD	143	514	15.36.075	REP 143 513
15.32.560	REP	143	513	15.36.080	AMD 143 201
15.32.570	REP	143	513	15.36.080	RECD 143 514
15.32.580	AMD	143	206	15.36.090	AMD 143 402
15.32.580	RECD	143	514	15.36.100	AMD 143 209
15.32.582	REP	143	513	15.36.100	RECD 143 514
15.32.584	REP	143	513	15.36.105	AMD 34 1
15.32.590	AMD	143	207	15.36.105	RECD 143 514
15.32.600	REP	143	513	15.36.107	AMD 34 2
15.32.610	AMD	143	504	15.36.107	AMD 143 507
15.32.610	RECD	143	514	15.36.107	RECD 143 514
15.32.610	REP	143	513	15.36.110	AMD 46 11
15.32.620	REP	143	513	15.36.110	AMD 143 401
15.32.630	REP	143	513	15.36.110	RECD 143 514
15.32.660	REP	143	513	15.36.115	AMD 143 505
15.32.670	REP	143	513	15.36.115	RECD 143 514
15.32.680	REP	143	513	15.36.120	AMD 143 510
15.32.700	REP	143	513	15.36.120	RECD 143 514
15.32.710	RECD	143	514	15.36.140	REP 143 513
15.32.720	RECD	143	514	15.36.150	RECD 143 514
15.32.730	RECD	143	514	15.36.155	REP 143 513
15.32.740	REP	143	513	15.36.160	REP 143 513
15.32.750	REP	143	513	15.36.165	REP 143 513
15.32.755	REP	143	513	15.36.170	REP 143 513
15.32.760	REP	143	513	15.36.175	REP 143 513
15.32.770	REP	143	513	15.36.180	REP 143 513
15.32.780	REP	143	513	15.36.185	REP 143 513
15.32.790	REP	143	513	15.36.190	REP 143 513
15.32.900	RECD	143	514	15.36.195	REP 143 513
15.32.910	RECD	143	514	15.36.200	REP 143 513
15.35.080	AMD	143	509	15.36.205	REP 143 513

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RCW		CH.	SEC.	RCW		CH.	SEC.
15.36.210	REP	143	513	15.36.520	AMD	143	404
15.36.215	REP	143	513	15.36.520	RECD	143	514
15.36.220	REP	143	513	15.36.530	RECD	143	514
15.36.225	REP	143	513	15.36.540	REP	143	513
15.36.230	REP	143	513	15.36.550	REP	143	513
15.36.235	REP	143	513	15.36.590	REP	143	513
15.36.240	REP	143	513	15.36.595	AMD	143	511
15.36.245	REP	143	513	15.36.595	RECD	143	514
15.36.250	REP	143	513	15.36.600	RECD	143	514
15.36.255	REP	143	513	15.36.900	REP	143	513
15.36.260	RECD	143	514	15.58.070	AMD	46	1
15.36.265	RECD	143	514	15.58.080	AMD	46	2
15.36.270	REP	143	513	15.60.005	AMD	178	1
15.36.280	REP	143	513	15.60.007	AMD	178	2
15.36.300	AMD	143	403	15.60.010	AMD	178	3
15.36.300	RECD	143	514	15.60.040	AMD	178	4
15.36.320	REP	143	513	15.60.043	AMD	178	5
15.36.325	REP	143	513	15.60.050	AMD	178	6
15.36.330	REP	143	513	15.66	ADD	256	2
15.36.335	REP	143	513	15.85.010	AMD	264	4
15.36.340	REP	143	513	15.85.060	AMD	264	5
15.36.345	REP	143	513	16.04	ADD	263	3
15.36.350	REP	143	513	16.04.015	AMD	263	1
15.36.355	REP	143	513	16.24.140	AMD	263	2
15.36.360	REP	143	513	16.49.444	AMD	128	1
15.36.365	REP	143	513	16.49.510	AMD	128	2
15.36.370	REP	143	513	16.52	ADD	261	2,3,5
15.36.375	REP	143	513				
15.36.380	REP	143	513	8,9			
15.36.385	REP	143	513	16.52.010	REP	261	23
15.36.390	REP	143	513	16.52.020	AMD	261	4
15.36.395	REP	143	513	16.52.030	REP	261	23
15.36.400	REP	143	513	16.52.040	REP	261	23
15.36.405	REP	143	513	16.52.050	REP	261	23
15.36.410	REP	143	513	16.52.055	REP	261	23
15.36.415	REP	143	513	16.52.060	REP	261	23
15.36.420	RECD	143	514	16.52.065	REP	261	23
15.36.425	REP	143	513	16.52.070	REP	261	23
15.36.430	REP	143	513	16.52.085	AMD	261	6
15.36.440	REP	143	513	16.52.095	AMD	261	7
15.36.460	REP	143	513	16.52.100	AMD	261	10
15.36.470	AMD	143	301	16.52.113	REP	261	23
15.36.470	RECD	143	514	16.52.117	AMD	261	11
15.36.480	AMD	143	506	16.52.120	REP	261	23
15.36.480	RECD	143	514	16.52.130	REP	261	23
15.36.490	AMD	143	210	16.52.140	REP	261	23
15.36.490	RECD	143	514	16.52.160	REP	261	23
15.36.500	AMD	143	211	16.52.180	AMD	261	12
15.36.500	RECD	143	514	16.52.185	AMD	261	22
15.36.510	REP	143	513	16.52.190	AMD	261	13

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RCW	CH.	SEC.	RCW	CH.	SEC.
16.52.200	AMD	261	14	17.21.160	AMD 283 19
16.52.300	AMD	261	15	17.21.170	AMD 283 20
16.57.020	AMD	46	7	17.21.180	AMD 283 21
16.57.080	REMD	46	16	17.21.190	AMD 283 22
16.57.090	REEN	46	17	17.21.200	AMD 283 23
16.57.140	REEN	46	18	17.21.203	AMD 283 24
16.57.220	AMD	46	25	17.21.220	AMD 283 25
16.57.220	REMD	46	19	17.21.230	AMD 283 26
16.57.350	AMD	46	8	17.21.240	AMD 283 27
16.57.400	REEN	46	20	17.21.260	AMD 283 28
16.58.050	AMD	46	23	17.21.280	AMD 283 29
16.58.050	REEN	46	14	17.21.290	AMD 283 30
16.58.130	AMD	46	24	17.21.360	AMD 283 31
16.58.130	REEN	46	15	17.21.400	AMD 283 32
16.65.030	AMD	46	21	17.21.410	AMD 283 33
16.65.030	REEN	46	12	17.21.420	AMD 283 34
16.65.090	AMD	46	22	17.21.910	AMD 283 35
16.65.090	REEN	46	13	18	ADD 9 E1 401-
16.68.190	AMD	264	6		
16.74.650	AMD	128	3	431	
17.16.010	REP	11	1	18	ADD 106 1-9
17.16.020	REP	11	1	18	ADD 211 1403
17.16.030	REP	11	1	18.04.025	AMD 211 1401
17.16.040	REP	11	1	18.04.195	AMD 211 1402
17.16.050	REP	11	1	18.06.080	AMD 9 E1 502
17.16.060	REP	11	1	18.06.170	REP 9 E1 503
17.16.070	REP	11	1	18.19.070	AMD 9 E1 501
17.16.080	REP	11	1	18.20	ADD 214 21
17.16.090	REP	11	1	18.20.120	AMD 214 25
17.16.100	REP	11	1	18.25	ADD 9 E1 101
17.16.110	REP	11	1		
17.16.130	REP	11	1	104-	
17.21	ADD	283	8		
17.21.020	AMD	283	1	107	
17.21.030	AMD	283	2		116
17.21.050	REMD	283	3		119
17.21.060	AMD	283	4		120
17.21.065	AMD	283	5	18.25.005	AMD 9 E1 102
17.21.070	AMD	283	6	18.25.006	AMD 9 E1 103
17.21.080	AMD	283	7	18.25.015	REP 9 E1 121
17.21.100	AMD	283	9	18.25.016	REP 9 E1 121
17.21.110	AMD	283	10	18.25.017	REP 9 E1 121
17.21.122	AMD	283	11	18.25.019	AMD 9 E1 108
17.21.126	AMD	283	12	18.25.020	AMD 9 E1 109
17.21.128	AMD	283	13	18.25.025	AMD 9 E1 110
17.21.129	AMD	283	14	18.25.030	AMD 9 E1 111
17.21.130	AMD	283	15	18.25.035	AMD 9 E1 112
17.21.132	AMD	283	16	18.25.040	AMD 9 E1 113
17.21.134	AMD	283	17	18.25.070	AMD 9 E1 114
17.21.150	AMD	283	18	18.25.075	AMD 9 E1 115

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18.25.120	RECD	9 E1 120	18.32.560	REP	9 E1 227
18.25.130	RECD	9 E1 120	18.32.570	REP	9 E1 227
18.25.140	RECD	9 E1 120	18.32.580	REP	9 E1 227
18.25.150	RECD	9 E1 120	18.32.590	REP	9 E1 227
18.25.160	RECD	9 E1 120	18.32.600	REP	9 E1 227
18.25.170	RECD	9 E1 120	18.32.610	REP	9 E1 227
18.25.180	AMD	9 E1 117	18.32.620	REP	9 E1 227
18.25.190	AMD	9 E1 118	18.32.640	AMD	9 E1 221
18.26.010	REP	9 E1 121	18.32.655	AMD	9 E1 222
18.26.020	REP	9 E1 121	18.32.665	AMD	9 E1 223
18.26.028	REP	9 E1 121	18.32.745	AMD	9 E1 224
18.26.030	REP	9 E1 121	18.32.755	AMD	9 E1 225
18.26.040	REP	9 E1 121	18.39	ADD	17 2-17
18.26.050	REP	9 E1 121	18.39.175	REMD	17 1
18.26.060	REP	9 E1 121	18.39.178	REP	17 20
18.26.070	REP	9 E1 121	18.50.032	AMD	9 E1 704
18.26.080	REP	9 E1 121	18.50.040	AMD	9 E1 705
18.26.090	REP	9 E1 121	18.50.115	AMD	9 E1 707
18.26.110	REP	9 E1 121	18.50.140	AMD	9 E1 706
18.26.320	REP	9 E1 121	18.51	ADD	214 22
18.26.330	REP	9 E1 121	18.55.020	AMD	9 E1 504
18.26.340	REP	9 E1 121	18.71	ADD	9 E1 301
18.26.350	REP	9 E1 121			335
18.26.360	REP	9 E1 121	18.71.010	AMD	9 E1 302
18.26.370	REP	9 E1 121	18.71.015	REMD	9 E1 303
18.26.380	REP	9 E1 121	18.71.017	AMD	9 E1 304
18.26.390	REP	9 E1 121	18.71.019	AMD	9 E1 305
18.26.900	REP	9 E1 121	18.71.030	REMD	9 E1 306
18.32	ADD	9 E1 201	18.71.050	AMD	9 E1 307
		204-	18.71.051	AMD	9 E1 308
		210	18.71.055	AMD	9 E1 309
		226	18.71.060	AMD	9 E1 310
18.32.010	AMD	9 E1 202	18.71.070	AMD	9 E1 311
18.32.030	AMD	9 E1 203	18.71.080	REMD	9 E1 312
18.32.035	REP	9 E1 227	18.71.085	AMD	9 E1 313
18.32.037	REP	9 E1 227	18.71.090	AMD	9 E1 314
18.32.040	AMD	9 E1 211	18.71.095	AMD	9 E1 315
18.32.042	REP	9 E1 227	18.71.205	AMD	9 E1 316
18.32.050	AMD	9 E1 212	18.71.230	AMD	9 E1 317
18.32.100	AMD	9 E1 213	18.71A.010	AMD	9 E1 318
18.32.120	AMD	9 E1 214	18.71A.020	AMD	9 E1 319
18.32.160	AMD	9 E1 215	18.71A.030	AMD	9 E1 320
18.32.180	AMD	9 1 216	18.71A.040	AMD	9 E1 321
18.32.190	AMD	9 E1 217	18.71A.045	AMD	9 E1 322
18.32.195	AMD	9 E1 218	18.71A.050	AMD	9 E1 323
18.32.215	AMD	9 E1 219	18.71A.060	AMD	9 E1 324
18.32.500	REP	9 E1 227	18.71A.085	AMD	9 E1 325
18.32.510	REP	9 E1 227	18.72.010	RECD	9 E1 335
18.32.520	REP	9 E1 227	18.72.020	REP	9 E1 336
18.32.534	AMD	9 E1 220	18.72.045	REP	9 E1 336

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RCW	CH.	SEC.	RCW	CH.	SEC.
18.72.090	REP	9 I	336	18.78.900	REP 9 E1 433
18.72.100	REP	9 E1	336	18.78.901	REP 9 E1 433
18.72.110	REP	9 E1	336	18.83.010	AMD 35 1
18.72.120	REP	9 E1	336	18.83.025	REP 35 8
18.72.130	REP	9 E1	336	18.83.050	AMD 35 2
18.72.150	REP	9 E1	336	18.83.100	AMD 35 3
18.72.154	REP	9 E1	336	18.83.135	AMD 35 4
18.72.155	AMD	9 E1	326	18.83.155	AMD 35 5
18.72.155	RECD	9 E1	335	18.83.168	REP 35 8
18.72.165	AMD	9 E1	327	18.83.910	AMD 35 6
18.72.165	RECD	9 E1	335	18.83.911	AMD 35 7
18.72.190	REP	9 E1	336	18.84.020	AMD 9 E1 505
18.72.265	AMD	9 E1	328	18.84.040	AMD 9 E1 506
18.72.265	RECD	9 E1	335	18.84.060	REP 9 E1 510
18.72.301	AMD	9 E1	329	18.84.070	AMD 9 E1 507
18.72.301	RECD	9 E1	335	18.84.090	AMD 9 E1 508
18.72.306	AMD	9 E1	330	18.84.110	AMD 9 E1 509
18.72.306	RECD	9 E1	335	18.85.090	AMD 291 1
18.72.311	AMD	9 E1	331	18.85.095	AMD 291 2
18.72.311	RECD	9 E1	335	18.85.097	AMD 291 4
18.72.316	AMD	9 E1	332	18.85.215	AMD 291 3
18.72.316	RECD	9 E1	335	18.85.500	REP 9 E1 857
18.72.321	RECD	9 E1	335	18.88.010	REP 9 E1 433
18.72.340	AMD	9 E1	333	18.88.020	REP 9 E1 433
18.72.340	RECD	9 E1	335	18.88.030	REP 9 E1 433
18.72.345	AMD	9 E1	334	18.88.050	REP 9 E1 433
18.72.345	RECD	9 E1	335	18.88.060	REP 9 E1 433
18.72.380	RECD	9 E1	335	18.88.070	REP 9 E1 433
18.72.390	RECD	9 E1	335	18.88.080	REP 9 E1 433
18.72.400	RECD	9 E1	335	18.88.086	REP 9 E1 433
18.72.900	REP	9 E1	336	18.88.090	REP 9 E1 433
18.72.910	REP	9 E1	336	18.88.100	REP 9 E1 433
18.78.005	REP	9 E1	433	18.88.110	REP 9 E1 433
18.78.010	REP	9 E1	433	18.88.120	REP 9 E1 433
18.78.020	REP	9 E1	433	18.88.130	REP 9 E1 433
18.78.030	REP	9 E1	433	18.88.140	REP 9 E1 433
18.78.040	REP	9 E1	433	18.88.150	REP 9 E1 433
18.78.050	REP	9 E1	433	18.88.160	REP 9 E1 433
18.78.054	REP	9 E1	433	18.88.170	REP 9 E1 433
18.78.055	REP	9 E1	433	18.88.175	REP 9 E1 433
18.78.058	REP	9 E1	433	18.88.190	REP 9 E1 433
18.78.060	REP	9 E1	433	18.88.200	REP 9 E1 433
18.78.070	REP	9 E1	433	18.88.220	REP 9 E1 433
18.78.072	REP	9 E1	433	18.88.270	REP 9 E1 433
18.78.080	REP	9 E1	433	18.88.280	REP 9 E1 433
18.78.090	REP	9 E1	433	18.88.285	REP 9 E1 433
18.78.100	REP	9 E1	433	18.88.290	REP 9 E1 433
18.78.160	REP	9 E1	433	18.88.295	REP 9 E1 433
18.78.182	REP	9 E1	433	18.88.300	REP 9 E1 433
18.78.225	REP	9 E1	433	18.88.900	REP 9 E1 433



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RCW	CH.	SEC.	RCW	CH.	SEC.
18.88A.020	AMD	9 E1	708	19.16.100	AMD 195 1
18.88A.030	AMD	9 E1	709	19.16.110	AMD 195 2
18.88A.060	AMD	9 E1	710	19.16.120	AMD 195 3
18.88A.070	REP	9 E1	433	19.16.140	AMD 195 4
18.88A.080	AMD	9 E1	711	19.16.190	AMD 195 5
18.88A.085	AMD	9 E1	712	19.16.230	AMD 195 6
18.88A.090	AMD	9 E1	713	19.16.240	AMD 195 7
18.88A.100	REMD	9 E1	714	19.16.260	AMD 195 8
18.88A.130	AMD	9 E1	715	19.16.390	AMD 195 9
18.89.020	AMD	9 E1	511	19.16.430	AMD 195 10
18.89.040	AMD	9 E1	716	19.16.440	AMD 195 11
18.89.050	AMD	9 E1	512	19.16.920	AMD 195 12
18.89.070	REP	9 E1	514	19.27A.020	AMD 226 1
18.89.080	AMD	9 E1	513	19.28.610	AMD 157 1
18.100.140	AMD	9 E1	717	19.70.010	RECD 7 E1 459
18.106	ADD	174	1	19.70.020	RECD 7 E1 459
18.106.020	AMD	174	2	19.77	ADD 60 2,7
18.106.025	REP	174	9	19.77.010	AMD 60 6
18.106.180	AMD	174	3	19.77.030	AMD 60 1
18.106.190	AMD	174	4	19.77.050	AMD 60 3
18.106.200	AMD	174	5	19.77.060	AMD 60 4
18.106.220	AMD	174	6	19.77.090	AMD 287 5
18.106.250	AMD	174	7	19.85	ADD 249 9
18.106.260	REP	174	9	19.85.010	REP 249 16
18.106.270	AMD	174	8	19.85.020	AMD 249 10
18.108	ADD	228	1	19.85.030	REMD 249 11
18.120.020	AMD	9 E1	718	19.85.040	REMD 249 12
18.130	ADD	9 E1	604	19.85.080	REP 249 16
18.130.010	AMD	9 E1	601	19.100.010	AMD 92 3
18.130.020	AMD	9 E1	602	19.110.020	AMD 92 4
18.130.040	AMD	9 E1	603	19.138	ADD 237 2-6
18.130.040	AMD	17	19		
18.130.300	AMD	9 E1	605	8,9	
18.130.330	AMD	102	1		
18.135.020	AMD	9 E1	719	13-28	
18.135.020	AMD	76	1		
18.135.030	AMD	9 E1	515	30,31	
18.138.070	AMD	9 E1	516	19.138.010	AMD 237 1
18.138.080	REP	9 E1	518	19.138.020	REP 237 29
19	ADD	7 E1	801	19.138.030	AMD 237 10
			803	19.138.040	AMD 237 11
			806	19.138.050	AMD 237 12
19	ADD	104	1-6	19.138.060	REP 237 29
19	ADD	285	2-7	19.138.070	REP 237 29
19	ADD	295	1,2	19.138.080	REP 237 29
19.02.050	AMD	264	8	19.146	ADD 33 2,9,11
19.09	ADD	287	4		
19.09.076	AMD	287	1	13,14	
19.09.100	AMD	287	2	19.146.005	AMD 33 1
19.09.230	AMD	287	3	19.146.010	AMD 33 3

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
19.146.020	AMD	33	4,5	23.86.007	AMD 206 1
19.146.0201	AMD	33	6	23.86.145	AMD 206 2
19.146.030	AMD	33	18	23B.01.570	AMD 287 6
19.146.040	AMD	33	19	23B.02.020	AMD 256 27
19.146.060	AMD	33	20	23B.04.010	REMD 211 1304
19.146.100	AMD	33	25	23B.05	ADD 256 31
19.146.200	AMD	33	7	23B.07.010	AMD 256 28
19.146.205	AMD	33	8	23B.08.030	AMD 256 29
19.146.210	AMD	33	10	23B.08.050	AMD 256 30
19.146.220	AMD	33	12	23B.14.200	AMD 287 7
19.146.225	AMD	33	15	24.03.045	AMD 211 1305
19.146.230	AMD	33	16	24.03.047	AMD 211 1306
19.146.235	AMD	33	17	24.03.302	AMD 287 8
19.146.240	AMD	33	21	24.03.388	AMD 287 9
19.146.245	AMD	33	22	24.06.045	AMD 211 1307
19.146.260	AMD	33	23	24.06.047	AMD 211 1308
19.146.265	AMD	33	24	24.06.290	AMD 287 10
19.146.270	REP	33	27	24.06.465	AMD 287 11
19.146.280	AMD	33	26	25	ADD 211 101-
21.20.005	REMD	256	3		
21.20.035	AMD	256	4	1303	
21.20.040	AMD	256	5		
21.20.050	AMD	256	6	1312-	
21.20.060	AMD	256	7		
21.20.080	AMD	256	8	1314	
21.20.090	AMD	256	9	25.10.020	AMD 211 1309
21.20.110	AMD	256	10	26.09.050	AMD 7 E1 451
21.20.120	AMD	256	11	26.09.060	AMD 7 E1 452
21.20.130	AMD	256	12	26.09.105	AMD 230 1
21.20.180	AMD	256	13	26.09.120	AMD 230 2
21.20.190	AMD	256	14	26.09.165	AMD 162 2
21.20.200	AMD	256	15	26.09.191	REMD 267 1
21.20.210	AMD	256	16	26.10.040	AMD 7 E1 453
21.20.275	AMD	256	17	26.10.115	AMD 7 E1 454
21.20.310	AMD	256	18	26.10.160	AMD 267 2
21.20.330	AMD	256	19	26.12	ADD 267 5
21.20.340	AMD	256	20	26.12.010	AMD 7 E1 537
21.20.370	AMD	256	21	26.12.170	AMD 267 3
21.20.380	AMD	256	22	26.12.220	AMD 267 4
21.20.390	AMD	256	23	26.18.070	AMD 230 3
21.20.450	AMD	256	24	26.18.100	AMD 230 4
21.20.510	AMD	256	25	26.18.110	AMD 230 5
21.20.702	AMD	256	26	26.18.140	AMD 230 6
21.30.010	AMD	92	5	26.18.170	AMD 230 7
21.30.380	AMD	92	6	26.23.040	AMD 127 1
22.09.011	AMD	46	3	26.23.045	AMD 230 8
22.09.050	AMD	46	4	26.23.050	AMD 230 9
22.09.055	AMD	46	5	26.23.060	AMD 230 10
22.09.830	AMD	6 E1	901	26.23.100	AMD 230 11
22.09.830	AMD	46	6	26.23.120	REMD 230 12

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RCW	CH.	SEC.	RCW	CH.	SEC.	
26.26	ADD	230			13	
26.26.040	AMD	230			14	
26.26.100	AMD	146			1	
26.26.100	AMD	230			15	
26.26.110	AMD	146			2	
26.26.120	AMD	146			3	
26.26.130	REMD	7 E1			455	
26.26.137	AMD	7 E1			456	
26.26.140	AMD	146			4	
26.26.150	AMD	230			16	
26.26.165	AMD	230			17	
26.28.060	AMD	62			1	
26.28.080	REMD	7 E1			437	
26.33	ADD	170			3	
26.33.350	AMD	170			1	
26.33.380	AMD	170			2	
26.44.053	AMD	110			1	
26.50.060	REMD	7 E1			457	
26.50.070	AMD	7 E1			458	
27.12.010	AMD	198			1	
27.12.470	AMD	198			2	
27.26.070	AMD	154			305	
27.34	ADD	82			2	
27.34.030	REP	9 E1			858	
27.34.040	REP	9 E1			858	
27.34.050	REP	9 E1			858	
28A.150	ADD	245			10	
28A.150.230	AMD	245			9	
28A.150.390	AMD	180			8	
28A.155.150	REP	180			9	
28A.160.220	AMD	113			1	
28A.160.220	RECD	113			2	
28A.170.060	AMD	245			5	
28A.175.070	AMD	245			6	
28A.210.260	AMD	9 E1			720	
28A.210.280	AMD	9 E1			721	
28A.210.290	AMD	9 E1			722	
28A.215.100	AMD	166			1	
28A.215.110	AMD	166			2	
28A.215.120	AMD	166			4	
28A.215.130	AMD	166			5	
28A.215.150	AMD	166			6	
28A.215.160	AMD	166			8	
28A.215.170	AMD	166			9	
28A.215.180	AMD	166			10	
28A.215.200	AMD	166			11	
28A.225	ADD	304			2	
28A.225.225	AMD	293			1	
28A.230.070	AMD	245			7	
28A.300	ADD	7 E1			602	
			28A.300	ADD	113	2
			28A.300.138	AMD	245	1
			28A.300.140	REP	245	14
			28A.300.150	AMD	245	8
			28A.305	ADJ	222	1,2
			28A.310.020	AMD	6 E1	513
			28A.315.440	AMD	301	3
			28A.315.520	AMD	223	5
			28A.320	ADD	7 E1	612
			28A.335.190	AMD	212	1
			28A.400.400	AMD	153	11
			28A.400.400	REP	153	15
			28A.405.100	AMD	115	1
			28A.525	ADD	219	11
			28A.600.110	AMD	234	4
			28A.600.300	AMD	205	1
			28A.600.310	AMD	205	2
			28A.600.320	AMD	205	3
			28A.600.330	AMD	205	4
			28A.600.340	AMD	205	5
			28A.600.350	AMD	205	6
			28A.600.360	AMD	205	7
			28A.600.370	AMD	205	8
			28A.600.380	AMD	205	9
			28A.600.390	AMD	205	10
			28A.600.395	REP	205	12
			28A.600.400	AMD	205	11
			28A.610.060	REP	245	14
			28A.615.050	REP	245	14
			28A.620.020	AMD	7 E1	603
			28A.625	ADD	279	4
			28A.625.041	REMD	279	1
			28A.625.060	AMD	279	2
			28A.625.065	AMD	279	3
			28A.630.825	AMD	13	4
			28A.630.830	AMD	13	5
			28A.630.840	AMD	13	6
			28A.630.845	AMD	13	1
			28A.630.850	AMD	13	2
			28A.630.851	REP	13	3
			28A.630.885	REMD	245	13
			28A.630.952	AMD	245	4
			28A.635.060	AMD	304	1
			28A.640.020	AMD	213	1
			28A.650.015	AMD	245	2
			28A.695.010	REP	6 E1	517
			28A.695.020	REP	6 E1	517
			28A.695.030	REP	6 E1	517
			28A.695.040	REP	6 E1	517

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>		
28A.695.050	REP	6 E1	517	29.07.070	AMD	57	11
28A.695.060	REP	6 E1	517	29.07.080	AMD	57	12
28A.695.070	REP	6 E1	517	29.07.090	AMD	57	13
28A.695.080	REP	6 E1	517	29.07.095	REP	57	53
28B	ADD	234	5-7	29.07.100	AMD	57	14
28B.10	ADD	105	2-4	29.07.105	REP	57	53
28B.10	ADD	194	7	29.07.115	AMD	57	15
28B.12.010	AMD	130	1	29.07.120	AMD	57	16
28B.12.020	AMD	130	2	29.07.130	AMD	57	17
28B.12.030	AMD	130	3	29.07.140	AMD	57	18
28B.12.040	AMD	130	4	29.07.170	AMD	57	19
28B.12.050	AMD	130	5	29.07.180	AMD	57	20
28B.12.060	REMD	130	6	29.07.260	AMD	57	21
28B.12.070	AMD	130	7	29.07.270	AMD	57	22
28B.15	ADD	188	1	29.07.300	AMD	57	23
28B.15.012	AMD	188	2	29.07.400	AMD	57	24
28B.15.045	AMD	41	1	29.07.410	AMD	57	25
28B.15.620	AMD	208	1	29.08.010	AMD	57	30
28B.15.628	AMD	208	2	29.08.050	AMD	57	31
28B.15.725	AMD	234	1	29.08.060	AMD	57	32
28B.45.020	AMD	217	3	29.10	ADD	57	33,34
28B.50	ADD	217	1,4				
28B.50	ADD	282	3	38-40			
28B.50.040	AMD	217	2				
28B.50.060	AMD	154	306	42,45-			
28B.50.839	AMD	234	3				
28B.80	ADD	222	3	47			
28B.80	ADD	279	5	29.10.020	AMD	57	35
28B.85	ADD	38	3,4	29.10.040	AMD	57	36
28B.85.020	AMD	38	1	29.10.051	AMD	57	37
28B.85.040	AMD	38	2	29.10.080	REP	57	54
28B.102.900	AMD	126	4	29.10.090	AMD	57	41
28C.10.030	AMD	9 E1	723	29.10.095	REP	57	53
28C.10.040	AMD	38	5	29.10.100	AMD	57	43
28C.18.040	AMD	154	307	29.10.180	REMD	57	44
29.01.006	AMD	57	2	29.13.010	AMD	142	1
29.04	ADD	57	7	29.13.020	AMD	142	2
29.04.040	AMD	57	3	29.15	ADD	223	7
29.04.070	AMD	57	4	29.15.120	AMD	223	6
29.04.100	AMD	57	5	29.15.200	AMD	223	8
29.04.110	AMD	57	6	29.36.120	AMD	57	48
29.07	ADD	57	9,26-	29.36.120	AMD	269	1
			29	29.36.121	AMD	57	49
29.07.010	AMD	57	8	29.36.122	AMD	57	50
29.07.015	REP	57	53	29.36.160	AMD	269	2
29.07.020	REP	57	53	29.45.050	AMD	223	91
29.07.025	AMD	57	10	29.48.010	AMD	57	51
29.07.050	REP	57	53	29.81A.020	AMD	191	1
29.07.060	REP	57	53	29.81A.080	AMD	191	2
29.07.065	REP	57	53	30	ADD	256	59-66

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RCW	CH.	SEC.	RCW	CH.	SEC.		
30.04.010	AMD	92	7	30.04.900	REP	256	124
30.04.020	AMD	256	32	30.08	ADD	256	52,53
30.04.030	AMD	92	8	30.08.010	AMD	92	42
30.04.060	AMD	92	9	30.08.010	AMD	256	41
30.04.070	AMD	92	10	30.08.020	AMD	92	43
30.04.075	AMD	92	11	30.08.020	AMD	256	42
30.04.085	RECD	256	56	30.08.030	AMD	92	44
30.04.111	AMD	92	12	30.08.040	AMD	92	45
30.04.120	AMD	92	13	30.08.040	AMD	256	43
30.04.125	AMD	92	14	30.08.050	AMD	92	46
30.04.125	AMD	256	33	30.08.060	AMD	92	47
30.04.127	AMD	92	15	30.08.070	AMD	92	48
30.04.130	AMD	92	16	30.08.080	AMD	92	49
30.04.130	AMD	256	34	30.08.082	AMD	92	50
30.04.180	AMD	92	17	30.08.082	AMD	256	44
30.04.180	AMD	256	35	30.08.083	AMD	92	51
30.04.210	AMD	92	18	30.08.084	AMD	92	52
30.04.210	AMD	256	36	30.08.087	AMD	256	45
30.04.212	AMD	92	19	30.08.088	AMD	92	53
30.04.215	AMD	92	20	30.08.088	AMD	256	46
30.04.215	AMD	256	37	30.08.090	AMD	92	54
30.04.220	AMD	92	21	30.08.090	AMD	256	47
30.04.230	AMD	92	22	30.08.092	AMD	92	55
30.04.232	AMD	92	23	30.08.092	AMD	256	48
30.04.235	REP	256	124	30.08.095	AMD	92	56
30.04.238	AMD	92	24	30.08.095	AMD	256	49
30.04.240	AMD	92	25	30.08.110	REP	256	124
30.04.250	REP	256	124	30.08.120	AMD	92	57
30.04.270	AMD	92	26	30.08.120	REP	256	124
30.04.270	REP	256	124	30.08.140	AMD	92	58
30.04.290	AMD	92	27	30.08.160	AMD	92	59
30.04.290	REP	256	124	30.08.180	AMD	92	60
30.04.310	AMD	92	28	30.08.190	AMD	92	61
30.04.370	RECD	256	2	30.08.190	AMD	256	51
30.04.405	AMD	92	29	30.12.010	AMD	92	62
30.04.410	AMD	92	30	30.12.010	AMD	256	54
30.04.450	AMD	92	31	30.12.020	AMD	256	55
30.04.455	AMD	92	32	30.12.030	AMD	92	63
30.04.465	AMD	92	33	30.12.040	AMD	92	64
30.04.470	AMD	92	34	30.12.042	AMD	92	65
30.04.475	AMD	92	35	30.12.044	AMD	92	66
30.04.550	AMD	92	36	30.12.047	AMD	92	67
30.04.555	AMD	256	38	30.12.050	AMD	92	68
30.04.560	AMD	92	37	30.12.050	REP	256	124
30.04.565	AMD	92	38	30.12.060	AMD	92	69
30.04.565	AMD	256	39	30.12.070	AMD	92	70
30.04.570	AMD	92	39	30.12.100	AMD	92	71
30.04.575	AMD	92	40	30.12.180	AMD	92	72
30.04.575	AMD	256	40	30.12.240	AMD	92	73
30.04.900	AMD	92	41	30.20	ADD	256	56

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
30.20.005	AMD	92	74	30.44.130	AMD 92 117
30.20.090	AMD	92	75	30.44.140	AMD 92 118
30.36.020	AMD	92	76	30.44.150	AMD 92 119
30.36.030	AMD	92	77	30.44.160	AMD 92 120
30.36.040	AMD	92	78	30.44.170	AMD 92 121
30.40.020	AMD	92	79	30.44.180	AMD 92 122
30.42.020	AMD	92	80	30.44.190	AMD 92 123
30.42.030	AMD	92	81	30.44.200	AMD 92 124
30.42.060	AMD	92	82	30.44.210	AMD 92 125
30.42.070	AMD	92	83	30.44.220	AMD 92 126
30.42.080	AMD	92	84	30.44.230	AMD 92 127
30.42.090	AMD	92	85	30.44.240	AMD 92 128
30.42.100	AMD	92	86	30.44.250	AMD 92 129
30.42.105	AMD	92	87	30.44.260	AMD 92 130
30.42.115	AMD	92	88	30.44.270	AMD 92 131
30.42.120	AMD	92	89	30.44.280	AMD 92 132
30.42.130	AMD	92	90	30.46.010	AMD 92 133
30.42.140	AMD	92	91	30.46.020	AMD 92 134
30.42.160	AMD	92	92	30.46.030	AMD 92 135
30.42.210	AMD	92	93	30.46.040	AMD 92 136
30.42.220	AMD	92	94	30.46.050	AMD 92 137
30.42.230	AMD	92	95	30.46.060	AMD 92 138
30.42.240	AMD	92	96	30.46.070	AMD 92 139
30.42.250	AMD	92	97	30.46.090	AMD 92 140
30.42.260	AMD	92	98	30.46.100	AMD 92 141
30.42.290	AMD	92	99	30.49.030	AMD 92 142
30.42.300	AMD	92	100	30.49.040	AMD 92 143
30.42.310	AMD	92	101	30.49.060	AMD 92 144
30.42.320	AMD	92	102	30.49.070	AMD 92 145
30.42.330	AMD	92	103	30.49.090	AMD 92 146
30.43	ADD	256	57	30.49.090	AMD 256 58
30.43.010	AMD	92	104	30.49.100	AMD 92 147
30.43.010	REP	256	124	30.49.110	AMD 92 148
30.43.020	AMD	92	105	30.49.120	AMD 92 149
30.43.020	REP	256	124	30.56.020	AMD 92 150
30.43.030	REP	256	124	30.56.030	AMD 92 151
30.43.040	REP	256	124	30.56.040	AMD 92 152
30.43.045	AMD	92	106	30.56.050	AMD 92 153
30.43.045	REP	256	124	30.56.060	AMD 92 154
30.43.050	REP	256	124	30.56.080	AMD 92 155
30.44.010	AMD	92	107	30.56.090	AMD 92 156
30.44.020	AMD	92	108	30.60.010	AMD 92 157
30.44.030	AMD	92	109	30.60.020	AMD 92 158
30.44.040	AMD	92	110	30.60.030	AMD 92 159
30.44.050	AMD	92	111	30.60.901	AMD 92 160
30.44.060	AMD	92	112	31.04.015	AMD 92 161
30.44.070	AMD	92	113	31.04.045	AMD 92 162
30.44.080	AMD	92	114	31.04.055	AMD 92 163
30.44.090	AMD	92	115	31.04.075	AMD 92 164
30.44.100	AMD	92	116	31.04.085	AMD 92 165

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RCW	CH.	SEC.	RCW	CH.	SEC.
31.04.093	AMD	92	166	31.12.406	AMD 256 84
31.04.105	AMD	92	167	31.12.415	AMD 92 196
31.04.115	AMD	92	168	31.12.415	AMD 256 85
31.04.145	AMD	92	169	31.12.425	AMD 92 197
31.04.155	AMD	92	170	31.12.425	AMD 256 86
31.04.165	AMD	92	171	31.12.435	AMD 92 198
31.04.175	AMD	92	172	31.12.435	AMD 256 87
31.04.185	AMD	92	173	31.12.445	AMD 92 199
31.04.902	AMD	92	174	31.12.455	AMD 92 200
31.12	ADD	256	92	31.12.465	AMD 92 201
31.12.005	AMD	92	175	31.12.475	AMD 92 202
31.12.005	AMD	256	68	31.12.506	AMD 92 203
31.12.015	AMD	92	176	31.12.516	AMD 92 204
31.12.015	AMD	256	69	31.12.526	AMD 92 205
31.12.025	AMD	256	70	31.12.526	AMD 256 88
31.12.035	AMD	92	177	31.12.535	AMD 92 206
31.12.045	AMD	92	178	31.12.545	AMD 92 207
31.12.055	AMD	92	179	31.12.555	AMD 92 208
31.12.055	AMD	256	71	31.12.555	AMD 256 89
31.12.065	AMD	92	180	31.12.565	AMD 92 209
31.12.065	AMD	256	72	31.12.565	AMD 256 90
31.12.075	AMD	92	181	31.12.575	AMD 92 210
31.12.085	AMD	92	182	31.12.585	AMD 92 211
31.12.095	AMD	92	183	31.12.595	AMD 92 212
31.12.095	REP	256	124	31.12.615	AMD 92 213
31.12.105	AMD	92	184	31.12.625	AMD 92 214
31.12.115	AMD	92	185	31.12.635	AMD 92 215
31.12.115	AMD	256	73	31.12.655	AMD 92 216
31.12.125	AMD	92	186	31.12.665	AMD 92 217
31.12.125	AMD	256	74	31.12.675	AMD 92 218
31.12.136	AMD	92	187	31.12.685	AMD 92 219
31.12.136	AMD	256	75	31.12.695	AMD 92 220
31.12.155	AMD	256	76	31.12.695	AMD 256 91
31.12.175	REP	256	124	31.12.705	AMD 92 221
31.12.195	AMD	92	188	31.12.715	AMD 92 222
31.12.195	AMD	256	77	31.12.725	AMD 92 223
31.12.206	AMD	92	189	31.12.905	AMD 92 224
31.12.215	AMD	92	190	31.12A.010	AMD 92 225
31.12.235	AMD	256	78	31.12A.040	AMD 92 226
31.12.255	AMD	256	79	31.12A.050	AMD 92 227
31.12.265	AMD	256	80	31.12A.070	AMD 92 228
31.12.306	AMD	92	191	31.12A.080	AMD 92 229
31.12.315	AMD	256	81	31.12A.090	AMD 92 230
31.12.335	AMD	92	192	31.12A.100	AMD 92 231
31.12.335	AMD	256	82	31.12A.120	AMD 92 232
31.12.355	AMD	92	193	31.12A.140	AMD 92 233
31.12.355	REP	256	124	31.13.030	AMD 92 234
31.12.385	AMD	92	194	31.24.080	AMD 92 235
31.12.385	AMD	256	83	31.24.120	AMD 92 236
31.12.406	AMD	92	195	31.30.010	AMD 92 237

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RCW	CH.	SEC.	RCW	CH.	SEC.
31.30.020	AMD	92	238	31.45.160	AMD 92 288
31.30.150	AMD	92	239	31.45.170	AMD 92 289
31.30.160	AMD	92	240	31.45.180	AMD 92 290
31.30.170	AMD	92	241	31.45.200	AMD 92 291
31.30.180	AMD	92	242	31.45.900	AMD 92 292
31.30.190	AMD	92	243	32.04.020	AMD 92 293
31.30.200	AMD	92	244	32.04.030	AMD 92 294
31.30.210	AMD	92	245	32.04.030	AMD 256 93
31.30.230	AMD	92	246	32.04.040	AMD 92 295
31.30.240	AMD	92	247	32.04.040	REP 256 124
31.30.250	AMD	92	248	32.04.050	AMD 92 296
31.30.260	AMD	92	249	32.04.060	AMD 256 94
31.30.270	AMD	92	250	32.04.080	AMD 92 297
31.35.010	AMD	92	251	32.04.080	AMD 256 95
31.35.020	AMD	92	252	32.04.085	AMD 92 298
31.35.030	AMD	92	253	32.04.085	AMD 256 96
31.35.050	AMD	92	254	32.04.110	AMD 92 299
31.35.060	AMD	92	255	32.04.211	AMD 92 300
31.35.070	AMD	92	256	32.04.220	AMD 92 301
31.35.080	AMD	92	257	32.04.250	AMD 92 302
31.35.090	AMD	92	258	32.04.260	AMD 92 303
31.35.100	AMD	92	259	32.04.280	AMD 92 304
31.35.900	AMD	92	260	32.04.290	AMD 92 305
31.40.010	AMD	92	261	32.04.300	AMD 92 306
31.40.020	AMD	92	262	32.08	ADD 256 99
31.40.030	AMD	92	263	32.08.010	AMD 92 307
31.40.050	AMD	92	264	32.08.010	AMD 256 97
31.40.060	AMD	92	265	32.08.020	AMD 92 308
31.40.070	AMD	92	266	32.08.030	AMD 92 309
31.40.080	AMD	92	267	32.08.040	AMD 92 310
31.40.090	AMD	92	268	32.08.050	AMD 92 311
31.40.100	AMD	92	269	32.08.060	AMD 92 312
31.40.110	AMD	92	270	32.08.061	AMD 92 313
31.40.120	AMD	92	271	32.08.070	AMD 92 314
31.40.130	AMD	92	272	32.08.080	AMD 92 315
31.40.900	AMD	92	273	32.08.090	AMD 92 316
31.45.010	AMD	92	274	32.08.116	AMD 92 317
31.45.020	AMD	92	275	32.08.130	AMD 92 318
31.45.030	AMD	92	276	32.08.140	AMD 92 319
31.45.040	AMD	92	277	32.08.142	AMD 256 98
31.45.050	AMD	92	278	32.08.210	AMD 92 320
31.45.060	AMD	92	279	32.08.215	AMD 92 321
31.45.070	AMD	92	280	32.08.230	AMD 92 322
31.45.080	AMD	92	281	32.12.010	AMD 92 323
31.45.090	AMD	92	282	32.12.020	AMD 92 324
31.45.100	AMD	92	283	32.12.050	AMD 92 325
31.45.110	AMD	92	284	32.12.050	AMD 256 100
31.45.120	AMD	92	285	32.12.060	AMD 92 326
31.45.140	AMD	92	286	32.12.060	REP 256 124
31.45.150	AMD	92	287	32.12.070	AMD 92 327



## RCW SECTIONS AFFECTED BY 1994 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
32.12.090	AMD	256	101	32.32.255	AMD	92	371
32.16.020	AMD	92	328	32.32.265	AMD	92	372
32.16.020	AMD	256	102	32.32.270	AMD	92	373
32.16.060	AMD	92	329	32.32.275	AMD	92	374
32.16.070	AMD	256	103	32.32.280	AMD	92	375
32.16.080	AMD	92	330	32.32.285	AMD	92	376
32.16.090	AMD	92	331	32.32.290	AMD	256	106
32.16.093	AMD	92	332	32.32.295	AMD	92	377
32.16.095	AMD	92	333	32.32.300	AMD	92	378
32.16.097	AMD	92	334	32.32.305	AMD	92	379
32.16.100	AMD	256	104	32.32.310	AMD	92	380
32.16.140	AMD	92	335	32.32.315	AMD	92	381
32.20.035	AMD	92	336	32.32.325	AMD	92	382
32.20.280	AMD	92	337	32.32.340	AMD	92	383
32.20.290	AMD	92	338	32.32.345	AMD	92	384
32.20.290	REP	256	124	32.32.350	AMD	92	385
32.24.010	AMD	92	339	32.32.360	AMD	92	386
32.24.020	AMD	92	340	32.32.370	AMD	92	387
32.24.030	AMD	92	341	32.32.375	AMD	92	388
32.24.040	AMD	92	342	32.32.395	AMD	92	389
32.24.050	AMD	92	343	32.32.400	AMD	92	390
32.24.060	AMD	92	344	32.32.410	AMD	92	391
32.24.070	AMD	92	345	32.32.415	AMD	92	392
32.24.080	AMD	92	346	32.32.420	AMD	92	393
32.24.090	AMD	92	347	32.32.425	AMD	92	394
32.24.100	AMD	92	348	32.32.430	AMD	92	395
32.32	ADD	256	114	32.32.450	AMD	92	396
32.32.010	AMD	92	349	32.32.455	AMD	92	397
32.32.015	AMD	92	350	32.32.465	AMD	92	398
32.32.020	AMD	92	351	32.32.470	AMD	92	399
32.32.025	AMD	92	352	32.32.475	AMD	92	400
32.32.025	AMD	256	105	32.32.480	AMD	256	107
32.32.030	AMD	92	353	32.32.485	AMD	92	401
32.32.040	AMD	92	354	32.32.485	AMD	256	108
32.32.055	AMD	92	355	32.32.490	AMD	92	402
32.32.060	AMD	92	356	32.32.490	AMD	256	109
32.32.075	AMD	92	357	32.32.495	AMD	92	403
32.32.105	AMD	92	358	32.32.495	AMD	256	110
32.32.130	AMD	92	359	32.32.500	AMD	92	404
32.32.150	AMD	92	360	32.32.500	AMD	256	111
32.32.175	AMD	92	361	32.32.505	AMD	256	112
32.32.210	AMD	92	362	32.32.510	REP	256	124
32.32.215	AMD	92	363	32.32.515	AMD	256	113
32.32.220	AMD	92	364	32.32.525	AMD	92	405
32.32.222	AMD	92	365	32.34.010	AMD	92	406
32.32.228	AMD	92	366	32.34.020	AMD	92	407
32.32.230	AMD	92	367	32.34.030	AMD	256	115
32.32.235	AMD	92	368	32.34.040	AMD	92	408
32.32.240	AMD	92	369	32.34.050	AMD	92	409
32.32.250	AMD	92	370	32.34.060	AMD	256	116

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
32.40.010	AMD	92	410	33.32.050	AMD 92 452
32.40.020	AMD	92	411	33.36.060	AMD 92 453
32.40.030	AMD	92	412	33.40.010	AMD 92 454
33.04.002	AMD	92	413	33.40.020	AMD 92 455
33.04.005	AMD	92	414	33.40.030	AMD 92 456
33.04.010	AMD	92	415	33.40.040	AMD 92 457
33.04.020	AMD	92	416	33.40.050	AMD 92 458
33.04.025	AMD	92	417	33.40.070	AMD 92 459
33.04.030	AMD	92	418	33.40.075	AMD 92 460
33.04.042	AMD	92	419	33.40.080	AMD 92 461
33.04.044	AMD	92	420	33.40.110	AMD 92 462
33.04.048	AMD	92	421	33.40.120	AMD 92 463
33.04.052	AMD	92	422	33.40.130	AMD 92 464
33.04.054	AMD	92	423	33.40.150	AMD 92 465
33.04.060	AMD	92	424	33.43.010	AMD 92 466
33.04.110	AMD	92	425	33.44.020	AMD 92 467
33.08.010	AMD	92	426	33.44.090	AMD 92 468
33.08.030	AMD	256	117	33.44.125	AMD 92 469
33.08.050	AMD	92	427	33.44.130	AMD 92 470
33.08.055	AMD	92	428	33.46.020	AMD 92 471
33.08.060	AMD	92	429	33.46.030	AMD 92 472
33.08.070	AMD	92	430	33.46.040	AMD 92 473
33.08.080	AMD	92	431	33.46.050	AMD 92 474
33.08.090	AMD	92	432	33.46.060	AMD 92 475
33.08.100	AMD	92	433	33.46.080	AMD 92 476
33.08.100	AMD	256	118	33.46.130	AMD 92 477
33.08.110	AMD	92	434	33.48.100	AMD 92 478
33.12.010	AMD	92	435	33.48.110	AMD 92 479
33.12.012	AMD	256	119	33.48.130	AMD 92 480
33.12.014	AMD	92	436	33.48.150	AMD 92 481
33.12.014	AMD	256	120	33.48.160	AMD 92 482
33.12.020	REP	256	124	33.48.170	AMD 92 483
33.12.060	AMD	92	437	33.48.180	AMD 92 484
33.12.060	AMD	256	121	33.48.190	AMD 92 485
33.12.140	AMD	92	438	33.48.200	AMD 92 486
33.16.030	AMD	256	122	33.48.210	AMD 92 487
33.16.040	AMD	92	439	33.48.230	AMD 92 488
33.16.090	AMD	256	123	33.48.240	AMD 92 489
33.16.120	AMD	92	440	33.48.250	AMD 92 490
33.16.130	AMD	92	441	33.48.260	AMD 92 491
33.20.130	AMD	92	442	33.48.280	AMD 92 492
33.20.150	AMD	92	443	33.48.320	AMD 92 493
33.20.170	AMD	92	444	34.05.030	AMD 39 1
33.24.010	AMD	92	445	34.05.220	AMD 249 24
33.24.025	AMD	92	446	34.05.310	AMD 249 1
33.24.360	AMD	92	447	34.05.320	AMD 249 14
33.24.370	AMD	92	448	34.05.325	AMD 249 7
33.28.020	AMD	92	449	34.05.350	AMD 249 3
33.32.020	AMD	92	450	34.05.355	AMD 249 8
33.32.030	AMD	92	451	34.05.370	AMD 249 2

"E1" Denotes 1994 1st special sess.

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RCW	CH.	SEC.	RCW	CH.	SEC.		
34.05.514	AMD	257	23	35.17.400	AMD	223	11
34.05.620	AMD	249	17	35.18.020	AMD	223	12
34.05.630	AMD	249	18	35.18.270	AMD	223	13
34.05.640	AMD	249	19	35.21	ADD	7 E1	502
34.05.670	REP	249	21	35.21	ADD	50	1
34.05.680	REP	249	21	35.21	ADD	79	1
34.12.020	AMD	257	22	35.21	ADD	112	3
35.01.010	AMD	81	3	35.21	ADD	161	2
35.01.020	AMD	81	4	35.21.165	AMD	275	36
35.01.030	REP	81	89	35.21.418	AMD	154	309
35.01.040	AMD	81	5	35.22.288	AMD	273	7
35.02	ADD	216	1,2,5	35.23.020	AMD	81	24
35.02	ADD	223	9	35.23.020	RECD	81	90
35.02.001	AMD	216	11	35.23.030	REP	81	89
35.02.005	AMD	81	6	35.23.040	AMD	81	25
35.02.010	AMD	216	12	35.23.040	RECD	81	90
35.02.020	AMD	216	4	35.23.050	REP	81	89
35.02.030	AMD	216	3	35.23.070	REP	81	89
35.02.039	AMD	216	14	35.23.070	REP	223	92
35.02.070	AMD	216	17	35.23.080	AMD	81	26
35.02.078	AMD	216	18	35.23.080	RECD	81	90
35.02.130	AMD	154	308	35.23.090	REP	81	89
35.06.010	AMD	81	7	35.23.100	REP	81	89
35.06.020	REP	81	89	35.23.110	REP	81	89
35.06.030	REP	81	89	35.23.120	AMD	81	27
35.06.040	REP	81	89	35.23.120	RECD	81	90
35.06.050	REP	81	89	35.23.130	REP	81	89
35.06.060	REP	81	89	35.23.132	REP	81	89
35.06.070	AMD	81	8	35.23.140	REP	81	89
35.06.080	AMD	81	9	35.23.150	AMD	81	28
35.07.010	AMD	81	10	35.23.150	RECD	81	90
35.10.365	AMD	73	1	35.23.160	AMD	81	29
35.10.520	AMD	73	2	35.23.160	RECD	81	90
35.13	ADD	216	7	35.23.170	AMD	81	16
35.13.175	REP	216	20	35.23.180	AMD	81	30
35.13.180	AMD	81	11	35.23.180	RECD	81	90
35.13.190	AMD	81	12	35.23.190	AMD	81	31
35.13.200	AMD	81	13	35.23.190	RECD	81	90
35.13.210	AMD	81	14	35.23.200	REP	81	89
35.13.225	AMD	73	3	35.23.210	REP	81	89
35.13.280	AMD	81	15	35.23.220	REP	81	89
35.13A	ADD	292	5	35.23.230	REP	81	89
35.16	ADD	273	6	35.23.240	REP	81	89
35.16.010	AMD	273	1	35.23.250	AMD	81	32
35.16.020	AMD	273	2	35.23.250	RECD	81	90
35.16.030	AMD	273	3	35.23.260	REP	81	89
35.16.040	AMD	273	4	35.23.270	AMD	81	17
35.16.050	AMD	273	5	35.23.280	AMD	81	33
35.17.020	AMD	119	1	35.23.280	RECD	81	90
35.17.020	AMD	223	10	35.23.300	REP	81	89

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>		
35.23.310	AMD	273	8	35.24.200	AMD	81	42
35.23.310	REP	81	89	35.24.200	RECD	81	90
35.23.320	REP	81	89	35.24.210	AMD	81	43
35.23.352	AMD	81	18	35.24.210	RECD	81	90
35.23.352	AMD	273	9	35.24.220	AMD	273	10
35.23.370	REP	81	89	35.24.220	RECD	81	90
35.23.440	AMD	81	19	35.24.250	RECD	81	90
35.23.450	REP	81	89	35.24.260	RECD	81	90
35.23.455	AMD	81	20	35.24.274	REP	81	89
35.23.460	AMD	81	21	35.24.275	REP	81	89
35.23.470	AMD	81	22	35.24.290	REP	81	89
35.23.500	REP	81	89	35.24.300	RECD	81	90
35.23.510	REP	81	89	35.24.305	AMD	81	44
35.23.530	AMD	81	34	35.24.305	RECD	81	90
35.23.530	AMD	223	16	35.24.306	AMD	81	45
35.23.530	RECD	81	90	35.24.306	RECD	81	90
35.23.540	REP	81	89	35.24.310	RECD	81	90
35.23.550	REP	81	89	35.24.330	AMD	81	46
35.23.570	AMD	81	23	35.24.330	RECD	81	90
35.23.595	REP	81	89	35.24.340	REP	81	89
35.24.010	REP	81	89	35.24.350	REP	81	89
35.24.020	AMD	81	35	35.24.370	AMD	81	47
35.24.020	RECD	81	90	35.24.370	RECD	81	90
35.24.030	REP	81	89	35.24.380	REP	81	89
35.24.050	AMD	81	36	35.24.390	REP	81	89
35.24.050	AMD	223	17	35.24.400	AMD	81	48
35.24.050	RECD	81	90	35.24.400	RECD	81	90
35.24.060	REP	81	89	35.24.410	AMD	81	49
35.24.070	RECD	81	90	35.24.410	RECD	81	90
35.24.070	REP	223	92	35.24.420	AMD	81	50
35.24.080	AMD	81	37	35.24.420	RECD	81	90
35.24.080	RECD	81	90	35.24.430	RECD	81	90
35.24.090	RECD	81	90	35.24.440	AMD	81	51
35.24.100	AMD	81	38	35.24.440	RECD	81	90
35.24.100	AMD	223	19	35.24.455	AMD	81	52
35.24.100	RECD	81	90	35.24.455	RECD	81	90
35.24.110	RECD	81	90	35.27.010	AMD	81	53
35.24.120	RECD	81	90	35.27.010	AMD	273	11
35.24.130	RECD	81	90	35.27.100	AMD	223	21
35.24.140	RECD	81	90	35.27.110	REP	223	92
35.24.142	AMD	81	39	35.27.140	AMD	223	22
35.24.142	RECD	81	90	35.27.300	AMD	273	12
35.24.144	RECD	81	90	35.27.550	AMD	81	54
35.24.146	RECD	81	90	35.30.018	AMD	273	13
35.24.148	RECD	81	90	35.31.050	AMD	81	55
35.24.160	AMD	81	40	35.34.040	AMD	81	56
35.24.160	RECD	81	90	35.43.140	AMD	71	2
35.24.180	RECD	81	90	35.44.070	AMD	71	1
35.24.190	AMD	81	41	35.49.120	REP	301	57
35.24.190	RECD	81	90	35.49.130	AMD	301	4

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	
35.55.010	AMD	81	57	35A.14.230	REP 216	20
35.55.130	AMD	81	58	35A.15.030	REP 223	92
35.56.010	AMD	81	59	35A.15.040	AMD 223	39
35.58.2795	AMD	158	6	35A.16.020	REP 223	92
35.61.010	AMD	81	60	35A.16.030	AMD 223	40
35.61.050	AMD	223	23	35A.21	ADD 50	2
35.61.060	REP	223	92	35A.21	ADD 161	3
35.61.070	REP	223	92	35A.21	ADD 292	6
35.61.080	REP	223	92	35A.29	ADD 223	41
35.61.320	REP	81	89	35A.29.010	REP 223	92
35.61.330	REP	81	89	35A.29.020	REP 223	92
35.61.340	REP	81	89	35A.29.030	REP 223	92
35.63	ADD	273	14	35A.29.040	REP 223	92
35.63.130	AMD	257	8	35A.29.050	REP 223	92
35.69.010	AMD	81	61	35A.29.060	REP 223	92
35.70.020	AMD	81	62	35A.29.070	REP 223	92
35.70.100	AMD	81	63	35A.29.080	REP 223	92
35.77.010	AMD	158	7	35A.29.090	REP 223	92
35.77.010	AMD	179	1	35A.29.100	REP 223	92
35.80A.010	AMD	175	1	35A.29.105	REP 223	92
35.86A.020	AMD	81	64	35A.29.110	REP 223	92
35.86A.050	AMD	81	65	35A.29.140	REP 223	92
35A.01.070	AMD	81	66	35A.29.150	REP 223	92
35A.01.070	AMD	223	24	35A.63	ADD 273	16
35A.02.001	REP	223	92	35A.63.170	AMD 257	7
35A.02.050	AMD	223	25	35A.69.010	REMD 143	512
35A.02.100	REP	223	92	36	ADD 266	1-8
35A.02.110	REP	223	92	36.17.020	AMD 4 E1	1
35A.02.130	AMD	81	67	36.17.042	AMD 301	5
35A.02.130	AMD	223	26	36.18	ADD 185	9
35A.06.020	AMD	81	68	36.18.140	REP 301	57
35A.06.020	AMD	223	27	36.21	ADD 276	2
35A.06.030	AMD	81	69	36.21.011	AMD 124	1
35A.06.030	AMD	223	28	36.21.011	AMD 276	1
35A.06.050	AMD	223	29	36.21.011	AMD 301	6
35A.10.010	AMD	81	70	36.21.020	REP 301	57
35A.11	ADD	7 E1	503	36.21.030	REP 301	57
35A.12.010	AMD	81	71	36.29.010	AMD 301	7
35A.12.010	AMD	223	30	36.32	ADD 7 E1	504
35A.12.040	AMD	223	31	36.32	ADD 50	3
35A.12.050	AMD	223	32	36.32.120	AMD 301	8
35A.12.060	AMD	223	33	36.32.127	AMD 275	37
35A.12.160	AMD	273	15	36.48.090	AMD 185	4
35A.12.180	AMD	223	34	36.54.080	REP 223	92
35A.13.010	AMD	81	72	36.54.090	REP 223	92
35A.13.010	AMD	223	35	36.54.100	REP 223	92
35A.13.020	AMD	223	36	36.61.040	AMD 264	9
35A.14	ADD	216	8	36.61.050	AMD 264	10
35A.14.060	REP	223	92	36.68.520	REMD 156	4
35A.14.070	AMD	223	38	36.68.525	AMD 156	5

**RCW SECTIONS AFFECTED BY 1994 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
36.69.020	AMD	223	42	39.19.070	AMD 15 1
36.69.060	REP	223	92	39.24.020	REP 138 2
36.69.070	AMD	223	43	39.24.030	REP 138 2
36.69.080	AMD	223	44	39.24.040	REP 138 2
36.69.090	AMD	223	45	39.25.010	REP 138 2
36.69.100	AMD	223	46	39.25.020	REP 138 2
36.69.140	AMD	156	2	39.25.030	REP 138 2
36.69.145	AMD	156	3	39.30.060	AMD 91 1
36.69.440	AMD	223	47	39.34	ADD 98 1
36.70.970	AMD	257	9	39.35.030	AMD 242 1
36.70A	ADD	257	3,4	39.35.040	AMD 242 2
36.70A	ADD	258	1,2	39.35.050	AMD 242 3
36.70A	ADD	273	17	39.36.020	AMD 277 1
36.70A.030	AMD	257	5	39.36.040	AMD 81 75
36.70A.030	AMD	307	2	39.44.130	AMD 301 9
36.70A.110	AMD	249	27	39.46.020	AMD 301 10
36.70A.210	AMD	249	28	39.46.030	AMD 301 11
36.70A.250	AMD	249	29	39.46.110	AMD 301 12
36.70A.260	AMD	249	30	39.50.030	AMD 301 13
36.70A.270	AMD	257	1	39.58.010	AMD 92 494
36.70A.280	AMD	249	31	40.14	ADD 193 2
36.70A.290	AMD	249	26	41	ADD 89 1-5
36.70A.290	AMD	257	2	41.04	ADD 298 6
36.70A.310	AMD	249	32	41.04.395	AMD 9 E1 801
36.70A.345	AMD	249	33	41.05	ADD 153 8
36.81.121	AMD	158	8	41.05.011	REMD 153 2
36.81.121	AMD	179	2	41.05.021	REMD 309 1
36.88	ADD	71	3,4	41.05.022	AMD 153 3
36.93	ADD	216	9,10	41.05.050	REMD 153 4
36.93.100	AMD	216	13	41.05.050	REMD 309 2
36.93.115	REP	216	20	41.05.055	AMD 36 1
36.93.150	AMD	216	15	41.05.065	REMD 153 5
36.93.152	REP	216	20	41.05.075	AMD 9 E1 724
36.93.160	AMD	216	16	41.05.075	AMD 153 6
36.94	ADD	292	7	41.05.075	AMD 309 3
36.94.050	AMD	81	74	41.05.080	AMD 153 7
37.12.100	AMD	12	1	41.05.120	AMD 153 9
37.12.110	AMD	12	2	41.05.140	REMD 153 10
37.12.120	AMD	12	3	41.05.180	AMD 9 E1 725
38.52	ADD	96	5	41.05.250	REP 153 14
38.52.420	AMD	264	11	41.05.260	REP 153 14
38.52.540	AMD	96	7	41.05.270	REP 153 14
39	ADD	132	1-15	41.06.070	REMD 264 13
39.04.020	AMD	243	1	41.16.050	AMD 273 23
39.04.150	AMD	243	2	41.26	ADD 298 5
39.04.150	AMD	264	12	41.26.030	REMD 197 5
39.04.210	AMD	80	1	41.26.030	REMD 264 14
39.04.220	AMD	80	2	41.26.170	AMD 197 6
39.04.230	AMD	80	3	41.26.180	RECD 298 5
39.12.065	AMD	88	1	41.26.192	AMD 197 7

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
41.26.194	AMD	197	8	42	ADD	154	101-
41.26.425	AMD	197	9				
41.26.520	AMD	197	10	109			
41.26.550	AMD	197	11				
41.32	ADD	247	1	111-			
41.32.010	AMD	197	12				
41.32.010	AMD	247	2	115			
41.32.010	AMD	298	3				
41.32.025	AMD	197	13	118-			
41.32.240	AMD	197	14				
41.32.310	AMD	197	15	120			
41.32.470	AMD	298	4				
41.32.498	AMD	197	16	201-			
41.32.500	AMD	177	5				
41.32.500	AMD	197	17	203			
41.32.510	AMD	177	6				
41.32.510	AMD	197	18	205-			
41.32.570	AMD	69	2				
41.32.575	AMD	247	3	221			
41.32.762	AMD	197	19				
41.32.810	AMD	197	20	223			
41.32.812	AMD	197	21				
41.32.825	AMD	197	22	224			
41.40	ADD	247	4				
41.40.010	AMD	177	8	227			
41.40.010	AMD	197	23				
41.40.010	AMD	247	5	301			
41.40.010	AMD	298	2				
41.40.023	AMD	197	24	302			
41.40.023	AMD	298	8	42.12	ADD	223	1
41.40.058	AMD	197	25	42.12.010	AMD	223	2
41.40.150	AMD	197	26	42.17	ADD	40	2
41.40.280	AMD	177	7	42.17	ADD	154	317
41.40.325	AMD	247	6	42.17.310	REMD	182	1
41.40.625	AMD	197	27	42.17.310	REMD	233	2
41.40.710	AMD	197	28	42.17.316	AMD	9	726
41.40.740	AMD	197	29	42.17.370	AMD	40	3
41.44.050	AMD	81	76	42.18.010	REP	154	152
41.50	ADD	177	2,4	42.18.020	REP	154	152
41.50	ADD	197	2-4	42.18.030	REP	154	152
41.50.010	AMD	197	30	42.18.040	REP	154	152
41.50.130	AMD	177	3	42.18.050	REP	154	152
41.50.160	AMD	197	31	42.18.060	REP	154	152
41.54.020	AMD	197	32	42.18.070	REP	154	152
41.56	ADD	58	2	42.18.080	REP	154	152
41.56.020	AMD	297	1	42.18.090	REP	154	152
41.56.160	AMD	58	1	42.18.100	REP	154	152
41.56.170	REP	58	3	42.18.110	REP	154	152
41.56.180	REP	58	3	42.18.120	REP	154	152
41.56.190	REP	58	3	42.18.130	REP	154	152

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<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	
42.18.140	REP	154	152	43	ADD 284	14-32
42.18.150	REP	154	152	43	ADD 302	1
42.18.170	REP	154	152	43.01.090	AMD 219	16
42.18.180	REP	154	152	43.06.010	AMD 223	3
42.18.190	REP	154	152	43.07.120	AMD 60	5
42.18.200	REP	154	152	43.07.120	AMD 211	1310
42.18.210	REP	154	152	43.07.130	AMD 211	1311
42.18.213	REP	154	152	43.19	ADD 219	18
42.18.215	REP	154	152	43.19.015	AMD 92	495
42.18.217	AMD	154	116	43.19.190	REMD 138	1
42.18.217	RECD	154	303	43.19.1902	REP 9 E1	859
42.18.221	REP	154	152	43.19.1906	AMD 300	1
42.18.230	AMD	154	117	43.19.1908	AMD 300	2
42.18.230	RECD	154	303	43.19.450	AMD 264	15
42.18.240	REP	154	152	43.19.500	AMD 219	17
42.18.250	REP	154	152	43.19.504	REP 138	2
42.18.260	AMD	154	222	43.19.506	REP 138	2
42.18.260	RECD	154	303	43.19.510	REP 138	2
42.18.270	AMD	154	110	43.19.554	AMD 9 E1	803
42.18.270	RECD	154	303	43.19.556	REP 9 E1	860
42.18.280	REP	154	152	43.19.558	AMD 9 E1	802
42.18.290	REP	154	152	43.20A	ADD 7 E1	322
42.18.300	REP	154	152	43.20A.090	AMD 7 E1	515
42.18.310	REP	154	152	43.20B	ADD 21	3
42.18.320	REP	154	152	43.20B	ADD 68	2
42.18.330	RECD	154	303	43.20B.140	REP 21	2
42.18.900	REP	154	152	43.21A.170	REP 9 E1	861
42.20.010	REP	154	152	43.21A.180	REP 9 E1	861
42.21.010	REP	154	152	43.21A.190	REP 9 E1	861
42.21.020	REP	154	152	43.21A.200	REP 9 E1	861
42.21.030	REP	154	152	43.21A.210	REP 9 E1	861
42.21.040	REP	154	152	43.21B	ADD 253	5
42.21.050	REP	154	152	43.21B.180	AMD 253	6
42.21.080	REP	154	152	43.21B.190	AMD 253	7
42.21.090	REP	154	152	43.21B.230	AMD 253	8
42.22.010	REP	154	152	43.21C	ADD 216	19
42.22.020	REP	154	152	43.21C	ADD 232	25
42.22.030	REP	154	152	43.21C	ADD 257	21
42.22.040	REP	154	152	43.21C.075	AMD 253	4
42.22.050	RECD	154	303	43.21F	ADD 207	5
42.22.060	REP	154	152	43.21F.015	AMD 207	3
42.22.070	REP	154	152	43.21F.025	AMD 207	2
42.22.120	REP	154	152	43.21F.045	AMD 207	4
42.23	ADD	154	121	43.21J.030	AMD 264	17
42.23.030	AMD	20	1	43.22.010	AMD 164	2
42.23.030	AMD	81	77	43.22.020	AMD 164	3
42.24.180	AMD	273	18	43.22.030	AMD 164	4
42.41	ADD	210	2	43.22.040	AMD 164	5
42.41.020	AMD	210	1	43.22.050	AMD 164	6
43	ADD	184	1-8	43.22.053	AMD 164	7



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RCW	CH.	SEC.	RCW	CH.	SEC.		
43.22.200	AMD	164	8	43.72.060	AMD	4	2
43.22.210	AMD	164	9	43.78.030	AMD	82	1
43.22.260	AMD	164	10	43.78.150	AMD	164	12
43.22.270	AMD	164	11	43.80.125	AMD	301	14
43.24.020	AMD	92	496	43.81.010	AMD	264	27
43.24.024	AMD	92	497	43.82.010	AMD	219	7
43.31	ADD	140	2	43.82.010	AMD	264	28
43.31	ADD	249	15	43.82.040	REP	219	20
43.31.526	AMD	47	2	43.82.050	REP	219	20
43.31.621	REMD	264	18	43.82.060	REP	219	20
43.33A.110	AMD	154	310	43.82.070	REP	219	20
43.41	ADD	7 E1	318	43.82.080	REP	219	20
			319	43.82.090	REP	219	20
43.41	ADD	9 E1	873	43.82.110	AMD	219	13
			875	43.82.120	AMD	219	14
			876	43.831.188	AMD	264	29
43.43.130	AMD	197	33	43.84.092	AMD	2	6
43.43.260	AMD	197	34	43.88	ADD	2	7
43.43.280	AMD	197	35	43.88	ADD	219	6
43.43.680	AMD	271	501	43.88.020	AMD	184	9
43.43.745	AMD	129	7	43.88.030	REMD	219	2
43.43.754	AMD	271	402	43.88.030	REMD	247	7
43.43.830	AMD	108	1	43.88.032	AMD	219	4
43.51.340	AMD	264	19	43.88.090	AMD	184	10
43.51.400	AMD	151	3	43.88.110	REMD	219	5
43.51.432	AMD	264	20	43.88.160	REMD	184	11
43.51.456	AMD	264	21	43.88.520	REP	2	9
43.51.675	AMD	264	22	43.88.525	REP	2	9
43.51.943	AMD	264	23	43.88.530	REP	2	9
43.52.350	AMD	264	24	43.88.535	REP	2	9
43.52.565	AMD	27	1	43.88.540	REP	2	9
43.63A.247	AMD	264	25	43.88A.020	AMD	219	3
43.63A.260	AMD	264	26	43.98B.030	AMD	264	30
43.63A.600	AMD	114	1	43.99.110	AMD	264	31
43.63A.610	AMD	114	2	43.101	ADD	7 E1	509
43.63A.620	AMD	114	3	43.101.240	AMD	7 E1	311
43.63A.630	AMD	114	4	43.121.020	AMD	48	1
43.63A.640	AMD	114	5	43.131.215	REP	126	1
43.63A.700	AMD	7 E1	702	43.131.216	REP	126	1
43.63A.710	AMD	7 E1	703	43.131.327	REP	126	1
43.70	ADD	7 E1	202-	43.131.328	REP	126	1
			205	43.131.333	AMD	282	4
43.70	ADD	299	29	43.131.334	AMD	282	5
43.70.010	AMD	7 E1	206	43.131.347	REP	126	1
43.70.195	AMD	292	3	43.131.348	REP	126	1
43.70.220	AMD	9 E1	727	43.131.365	REP	126	1
43.72	ADD	4	4	43.131.366	REP	126	1
43.72.010	AMD	4	1	43.131.371	REP	126	1
43.72.020	AMD	154	311	43.131.372	REP	126	1
43.72.040	AMD	4	3	43.131.381	AMD	126	2

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<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>		<u>CH.</u>	<u>SEC.</u>
43.131.382	AMD	126	3	44.60.100	REP	154	152
43.135	ADD	2	2-4 8-10	44.60.110	REP	154	152
43.135.010	AMD	2	1	44.60.120	REP	154	152
43.135.020	REP	2	9	44.60.130	REP	154	152
43.135.030	REP	2	9	44.70.010	REP	223	92
43.135.040	REP	2	9	46.01.011	AMD	92	500
43.135.050	REP	2	9	46.01.050	AMD	92	501
43.135.060	AMD	2	5	46.01.230	AMD	262	1
43.135.070	REP	2	9	46.01.260	AMD	275	14
43.135.900	REP	2	9	46.04	ADD	194	1
43.135.901	REP	2	9	46.04	ADD	275	1
43.155	ADD	16	1	46.04.480	AMD	275	38
43.163	ADD	238	4	46.04.580	AMD	275	28
43.163.010	AMD	92	498	46.04.670	AMD	262	2
43.163.010	AMD	238	1	46.09.130	AMD	264	35
43.163.080	AMD	238	2	46.09.170	AMD	264	36
43.163.110	AMD	92	499	46.10.130	AMD	264	37
43.163.120	AMD	238	3	46.10.150	AMD	262	3
43.163.130	AMD	238	5	46.10.170	AMD	262	4
43.180	ADD	235	1-3	46.10.220	AMD	264	38
43.185.050	AMD	160	1	46.12.160	AMD	262	5
43.185.060	AMD	160	2	46.12.170	AMD	262	6
43.185.070	REMD	3 E1	9	46.12.181	AMD	262	7
43.185A.030	AMD	160	3	46.12.270	AMD	139	2
43.185A.040	AMD	160	4	46.12.400	REP	139	3
43.200.050	REP	9 E1	862	46.12.410	REP	139	3
43.210.110	REMD	284	7	46.16	ADD	194	3
43.220.020	AMD	264	32	46.16.0101	REP	227	1
43.220.090	AMD	264	33	46.16.070	AMD	262	8
43.220.120	AMD	264	34	46.16.080	REP	262	28
43.220.140	DECD	264	99	46.16.210	AMD	262	9
43.230.010	REP	9 E1	863	46.16.301	AMD	194	2
43.230.020	REP	9 E1	863	46.16.313	AMD	194	4
43.230.030	REP	9 E1	863	46.16.323	REP	194	9
43.230.040	REP	9 E1	863	46.16.332	AMD	194	5
43.300.900	AMD	6	4	46.16.381	AMD	194	6
43.330	ADD	284	1,2	46.20	ADD	275	10
43.330	ADD	306	1	46.20.205	AMD	57	52
43.330.090	AMD	144	1	46.20.265	AMD	7 E1	439
43.330.902	AMD	5	2	46.20.308	AMD	275	13
44.60.010	REP	154	152	46.20.311	AMD	275	27
44.60.020	REP	154	152	46.20.391	AMD	275	29
44.60.030	REP	154	152	46.20.710	AMD	275	21
44.60.040	REP	154	152	46.20.720	AMD	275	22
44.60.050	REP	154	152	46.20.730	AMD	275	23
44.60.070	REP	154	152	46.20.740	AMD	275	24
44.60.080	REP	154	152	46.20.750	AMD	275	25
44.60.090	REP	154	152	46.44	ADD	305	1
				46.44.030	AMD	59	2
				46.44.047	AMD	172	1

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RCW	CH.	SEC.	RCW	CH.	SEC.
46.44.0941	AMD	59	47.17	ADD	209, 9,10
46.44.0941	AMD	172	47.17.080	AMD	209, 1
46.44.175	AMD	301	47.17.081	AMD	209, 2
46.52.100	AMD	275	47.17.175	AMD	209, 3
46.52.130	AMD	275	47.17.305	AMD	209, 4
46.55.010	AMD	176	47.17.317	AMD	209, 5
46.55.113	AMD	275	47.17.556	AMD	209, 6
46.55.240	AMD	176	47.17.560	AMD	209, 7
46.61	ADD	139	47.17.735	AMD	209, 8
46.61	ADD	141	47.26	ADD	179, 6,9,11
46.61	ADD	275	47.26.040	AMD	179, 7
			47.26.042	REP	179, 31
			47.26.043	REP	179, 31
46.61.502	AMD	275	47.26.080	AMD	179, 8
46.61.504	AMD	275	47.26.084	AMD	179, 10
46.61.506	AMD	275	47.26.090	AMD	179, 12
46.61.511	REP	139	47.26.121	AMD	179, 13
46.61.512	REP	139	47.26.140	AMD	179, 14
46.61.515	REP	275	47.26.160	AMD	179, 15
46.61.5151	AMD	275	47.26.170	AMD	179, 16
46.61.5152	AMD	275	47.26.180	REP	179, 31
46.61.687	AMD	100	47.26.185	AMD	179, 17
46.63.020	AMD	141	47.26.190	AMD	179, 18
46.63.020	AMD	275	47.26.220	REP	179, 31
46.63.030	AMD	176	47.26.230	REP	179, 31
46.68	ADD	266	47.26.240	REP	179, 31
46.68.090	AMD	179	47.26.260	AMD	179, 19
46.68.090	AMD	225	47.26.265	REP	179, 31
46.68.095	AMD	179	47.26.270	AMD	179, 20
46.68.100	AMD	179	47.26.305	AMD	179, 21
46.70	ADD	284	47.26.310	REP	179, 31
46.70.090	AMD	262	47.26.315	REP	179, 31
46.70.124	AMD	262	47.26.425	AMD	179, 22
46.70.135	AMD	284	47.26.4252	AMD	179, 23
46.70.180	AMD	284	47.26.4254	AMD	179, 24
46.87.020	AMD	262	47.26.430	REP	179, 31
46.87.023	AMD	227	47.26.440	AMD	179, 25
46.87.040	AMD	262	47.26.450	AMD	179, 26
46.87.090	AMD	262	47.26.460	AMD	179, 27
46.87.335	AMD	262	47.26.500	AMD	179, 28
46.87.350	AMD	262	47.26.505	AMD	179, 29
46.96	ADD	274	47.60	ADD	181, 2
46.96.120	AMD	274	47.80	ADD	158, 1-3,5
46.96.120	RECD	274	47.80.030	AMD	158, 4
46.96.130	AMD	274	48.05.340	AMD	171, 1
46.96.130	RECD	274	48.05.390	AMD	131, 7
47.01	ADD	258	48.12.160	AMD	86, 1
47.01.290	AMD	258	48.14.010	AMD	131, 2
47.06.040	AMD	258	48.15.070	AMD	131, 3
47.10	ADD	183	48.15.090	AMD	86, 2
47.10.801	REMD	173			

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RCW	CH.	SEC.	RCW	CH.	SEC.		
48.17.135	REP	9 E1	864	50.04.020	AMD	3	1
48.17.150	AMD	131	4	50.04.223	AMD	3	2
48.17.160	AMD	131	5	50.22	ADD	3	3
48.17.270	AMD	203	1	50.24.014	AMD	187	3
48.17.563	AMD	131	6	50.63.010	AMD	299	19
48.18.180	AMD	203	2	50.63.010	RECD	299	26
48.18A.060	AMD	92	502	50.63.020	AMD	299	20
48.18A.070	AMD	92	503	50.63.020	RECD	299	26
48.19.040	AMD	131	8	50.63.030	AMD	299	21
48.20.393	AMD	9 E1	728	50.63.030	RECD	299	26
48.20.411	AMD	9 E1	729	50.63.040	AMD	299	22
48.21.141	AMD	9 E1	730	50.63.040	RECD	299	26
48.21.225	AMD	9 E1	731	50.63.050	RECD	299	26
48.22	ADD	186	1-5,7	50.63.060	AMD	299	24
48.22.080	AMD	102	2	50.63.060	RECD	299	26
48.30.140	AMD	203	3	50.63.070	RECD	299	26
48.30.170	AMD	203	4	50.63.080	RECD	299	26
48.32A.010	AMD	149	1	50.63.090	AMD	299	25
48.32A.020	AMD	149	2	50.63.090	RECD	299	26
48.32A.030	AMD	149	3	50.67	ADD	3 E1	8
48.32A.050	AMD	149	4	51	ADD	29	1-5
48.32A.060	AMD	149	5	51.04	ADD	265	2
48.32A.070	AMD	149	6	51.04.020	AMD	164	24
48.32A.080	AMD	149	7	51.04.030	REMD	164	25
48.32A.120	AMD	149	8	51.12	ADD	246	1
48.36A.270	AMD	131	1	51.16.105	AMD	164	26
48.44.026	AMD	9 E1	732	51.32	ADD	265	1,3,4
48.44.290	AMD	9 E1	733	51.32.055	AMD	97	1
48.44.325	AMD	9 E1	734	51.36	ADD	94	1
48.46.275	AMD	9 E1	735	51.36.110	AMD	154	312
48.87.050	AMD	90	1	52.04.121	AMD	73	4
49.12	ADD	62	2	52.06.085	AMD	14	1
49.12.005	AMD	164	13	52.06.120	AMD	73	5
49.12.035	REP	164	29	52.12	ADD	28	1
49.12.041	AMD	164	14	52.14.010	AMD	223	48
49.12.050	AMD	164	15	52.14.013	AMD	223	49
49.12.091	AMD	164	16	52.14.015	AMD	223	50
49.12.101	AMD	164	17	52.14.030	AMD	223	51
49.12.105	AMD	164	18	52.14.050	AMD	223	52
49.12.110	AMD	164	19	52.14.060	AMD	223	53
49.12.125	REP	164	29	53.04	ADD	223	83
49.12.140	AMD	164	20	53.04.023	AMD	223	84
49.12.161	REP	164	29	53.06.020	AMD	75	1
49.12.170	AMD	164	21	53.06.070	AMD	75	2
49.12.180	AMD	164	22	53.08	ADD	74	2
49.17.140	AMD	61	1	53.08.090	AMD	26	1
49.24.070	AMD	164	23	53.12	ADD	223	82
49.70.120	REP	9 E1	865	53.12.010	AMD	223	81
49.70.130	REP	9 E1	865	53.12.047	REP	223	92
50	ADD	3 E1	1-7	53.12.115	AMD	223	86

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**RCW SECTIONS AFFECTED BY 1994 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>
53.12.120	AMD	223	87	66.20.200	AMD 201 1
53.12.130	AMD	223	88	66.24	ADD 201 4
53.12.140	AMD	223	54	66.24.210	AMD 7 E1 901
53.12.150	REP	223	92	66.24.290	AMD 7 E1 902
53.12.172	REMD	223	85	66.24.455	AMD 201 2
53.12.175	AMD	223	89	66.24.490	AMD 201 3
53.16.015	AMD	223	90	66.28.010	AMD 63 1
53.31.910	REP	75	3	66.28.070	AMD 63 2
53.31.911	REP	75	3	66.28.070	AMD 201 5
53.36.100	AMD	278	1	66.28.140	AMD 201 6
54.08.060	AMD	223	55	66.40.030	AMD 55 1
54.12.010	AMD	223	56	66.44.300	AMD 201 7
54.16	ADD	292	10	66.44.310	AMD 201 8
54.16.180	AMD	81	78	67.16.105	AMD 159 2
54.40.010	AMD	223	57	67.16.160	AMD 154 314
54.40.040	AMD	223	58	67.16.250	AMD 159 3
54.40.050	AMD	223	59	67.28	ADD 65 1
54.40.060	AMD	223	60	67.28.210	REMD 290 1
54.40.070	AMD	223	61	67.34.011	REP 9 E1 866
56.04.090	AMD	81	79	67.34.021	REP 9 E1 866
56.08.070	REEN	31	1	67.70.010	AMD 218 3
56.12	ADD	223	65	67.70.040	AMD 218 4
56.12.015	AMD	223	62	67.70.190	AMD 218 5
56.12.020	AMD	223	63	68.24.180	AMD 273 20
56.12.030	AMD	223	64	68.52	ADD 223 73
56.32.110	AMD	289	1	68.52.100	AMD 223 74
57.02.050	AMD	223	66	68.52.140	AMD 223 75
57.02.060	REP	223	92	68.52.160	AMD 223 76
57.04.050	AMD	292	2	68.52.210	AMD 81 82
57.04.100	AMD	81	80	68.52.220	AMD 223 77
57.08.010	AMD	81	81	68.52.240	REP 223 92
57.08.050	REEN	31	2	69.04.935	AMD 264 39
57.12.015	AMD	223	67	69.30.070	AMD 264 40
57.12.020	AMD	223	68	69.41.010	REMD 9 E1 736
57.12.030	AMD	223	69	69.41.030	AMD 9 I 737
57.12.039	AMD	223	70	69.45.010	AMD 9 E1 738
57.24	ADD	292	8	69.50.101	AMD 9 E1 739
57.32.022	AMD	223	71	69.50.402	AMD 9 E1 740
57.32.023	AMD	223	72	69.50.520	AMD 7 E1 910
58.08.040	AMD	301	16	69.80	ADD 299 36
58.17.330	AMD	257	6	69.80.030	REP 299 37
58.19.030	AMD	92	504	69.80.900	AMD 299 38
59.20	ADD	30	1	70	ADD 25 1-4
60.28.011	AMD	101	1	70	ADD 214 1-20
63.21.080	AMD	51	6	70.02.030	AMD 9 E1 741
64	ADD	200	1-8	70.24.105	AMD 72 1
65.16.160	AMD	273	19	70.28	ADD 145 1,2
66.08	ADD	266	10	70.37.020	AMD 92 505
66.08.080	AMD	154	313	70.41.200	AMD 9 E1 742
66.12.210	AMD	70	1	70.41.210	AMD 9 E1 743

## RCW SECTIONS AFFECTED BY 1994 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
70.41.230	AMD	9 E1	744	70.95K	ADD	165	3,4
70.44.040	AMD	223	78	70.95K.010	AMD	165	2
70.44.045	AMD	223	79	70.96A.020	AMD	231	1
70.44.051	REP	223	92	70.96A.070	AMD	231	2
70.44.053	AMD	223	80	70.104.080	AMD	264	41
70.44.055	REP	223	92	70.105	ADD	232	19
70.44.057	REP	223	92	70.105	ADD	254	5,7
70.47.020	AMD	309	4	70.105	ADD	257	17
70.47.060	AMD	309	5	70.105.020	AMD	264	42
70.47.130	AMD	309	6	70.105.050	AMD	254	6
70.62.200	AMD	250	1	70.105D	ADD	257	14
70.62.220	AMD	250	2	70.105D.010	AMD	254	1
70.62.230	REP	250	9	70.105D.020	AMD	254	2
70.62.240	AMD	250	3	70.105D.030	AMD	254	3
70.62.250	AMD	250	4	70.105D.030	AMD	257	11
70.62.260	AMD	250	6	70.105D.040	AMD	254	4
70.62.270	AMD	250	7	70.105D.050	AMD	257	12
70.62.290	AMD	250	8	70.105D.060	AMD	257	13
70.77	ADD	133	2,15	70.105D.070	AMD	252	5
70.77.146	AMD	133	1	70.118	ADD	281	4-6
70.77.177	AMD	133	3	70.118.020	AMD	281	2
70.77.255	AMD	133	4	70.118.060	AMD	281	3
70.77.265	AMD	133	5	70.119A	ADD	252	3,4
70.77.270	AMD	133	6	70.119A.020	AMD	252	2
70.77.280	AMD	133	7	70.123.075	AMD	233	1
70.77.325	AMD	133	8	70.127.250	AMD	9 E1	745
70.77.355	AMD	133	9	70.128	ADD	214	24
70.77.370	AMD	133	10	70.146.080	AMD	6 E1	902
70.77.435	AMD	133	11	70.148.030	AMD	9 E1	805
70.77.440	AMD	133	12	70.155.030	AMD	202	1
70.77.450	AMD	133	13	70.175.030	AMD	9 E1	806
70.77.535	AMD	133	14	70.180.020	AMD	103	1
70.79	ADD	64	3	70.180.030	AMD	9 E1	746
70.79.080	AMD	64	2	70.180.030	AMD	103	2
70.79.120	AMD	164	27	70.180.040	AMD	103	3
70.84.090	AMD	262	17	70.190	ADD	7 E1	207
70.87.030	AMD	164	28				
70.94	ADD	232	18	303-			
70.94	ADD	257	15				310
70.94.039	REP	9 E1	867				312
70.94.650	AMD	28	2				314
70.95	ADD	165	5				320
70.95	ADD	257	16				604
70.95C	ADD	248	1	70.190	ADD	299	5
70.95E.010	AMD	136	1	70.190.005	AMD	7 E1	301
70.95E.020	AMD	2 E1	3	70.190.020	AMD	7 E1	315
70.95E.020	AMD	136	2	70.190.030	AMD	7 E1	316
70.95E.030	AMD	136	3	70.190.900	AMD	7 E1	317
70.95E.050	AMD	136	4	70.190.900	REP	7 E1	325
70.95E.060	REP	136	5	71.05.210	REMD	9 E1	747

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RCW	CH.	SEC.	RCW	CH.	SEC.		
71.05.325	AMD	129	8	74.20A.056	AMD	146	5
71.05.425	AMD	129	9	74.20A.056	AMD	230	19
71.05.450	AMD	7 E1	440	74.20A.080	REMD	230	20
71.12.560	AMD	7 E1	441	74.20A.240	AMD	230	21
71.24	ADD	259	1-4	74.20A.300	AMD	230	22
71.24.025	AMD	9 E1	748	74.25	ADD	299	8
71.24.025	AMD	204	1	74.25.010	AMD	299	6
71.24.300	AMD	204	2	74.42.010	AMD	9 E1	750
71A.20.020	AMD	215	1	74.42.230	AMD	9 E1	751
72.01.410	AMD	220	1	74.42.240	AMD	9 E1	752
72.02	ADD	7 E1	808	74.42.380	AMD	9 E1	753
72.09.070	AMD	7 E1	535	75.08.011	REMD	255	2
72.09.100	AMD	224	1	75.10.220	AMD	264	45
72.09.111	AMD	7 E1	534	75.20	ADD	257	18
72.09.300	AMD	7 E1	542	75.25	ADD	255	9
72.23.080	AMD	7 E1	442	75.25.091	AMD	255	3
72.36	ADD	214	23	75.25.092	AMD	255	4
72.63.020	AMD	264	43	75.25.110	AMD	255	5
72.63.030	AMD	264	44	75.25.120	AMD	255	6
72.65	ADD	271	1001	75.25.150	AMD	255	7
72.76.010	AMD	7 E1	539	75.25.180	REMD	255	8
73.04	ADD	147	1,3,5	75.28	ADD	260	15
73.04.130	AMD	147	2	75.28.020	AMD	244	1
73.36.050	AMD	147	4	75.28.044	AMD	260	11
73.36.070	REP	147	6	75.28.046	AMD	260	12
73.40.020	REP	9 E1	868	75.28.113	AMD	260	22
73.40.050	REP	9 E1	868	75.28.125	REMD	260	21
74	ADD	299	23,26	75.28.130	AMD	260	14
74.04	ADD	299	34	75.28.770	AMD	264	46
74.04.660	AMD	296	1	75.30	ADD	9 E1	808
74.09	ADD	180	5-7	75.30	ADD	260	2-10
74.09.290	AMD	9 E1	749				13,16
74.09.520	REMD	21	4				17,19
74.09.524.3	AMD	180	1				20
74.09.524.7	AMD	180	2	75.30.050	REMD	9 E1	807
74.09.524.9	AMD	180	3	75.30.050	REMD	260	18
74.09.525.3	AMD	180	4	75.40	ADD	148	1,2
74.12	ADD	299	2,3	75.54.006	REP	6	3
			9-12	75.54.070	AMD	264	47
			33,35	76.09.040	AMD	264	48
			39	76.09.050	AMD	264	49
74.12.350	AMD	299	31	76.09.180	AMD	264	50
74.12.360	REP	299	32	76.09.230	AMD	253	9
74.13	ADD	7 E1	501	76.36.110	AMD	163	1
74.13.075	REMD	169	1	76.40.010	REP	163	6
74.14A.020	AMD	7 E1	102	76.40.012	REP	163	6
74.14C.070	AMD	288	3	76.40.013	REP	163	6
74.15.020	AMD	273	21	76.40.020	REP	163	6
74.20	ADD	230	18	76.40.030	REP	163	6
74.20	ADD	299	16	76.40.040	REP	163	6

**RCW SECTIONS AFFECTED BY 1994 STATUTES**

<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>	<u>RCW</u>	<u>CH.</u>	<u>SEC.</u>		
76.40.050	REP	163	6	78.52.100	AMD	9 E1	820
76.40.060	REP	163	6	78.52.120	AMD	9 E1	821
76.40.070	REP	163	6	78.52.125	AMD	9 E1	822
76.40.080	REP	163	6	78.52.140	AMD	9 E1	823
76.40.090	REP	163	6	78.52.150	AMD	9 E1	824
76.40.100	REP	163	6	78.52.155	AMD	9 E1	825
76.40.110	REP	163	6	78.52.200	AMD	9 E1	826
76.40.120	REP	163	6	78.52.205	AMD	9 E1	827
76.40.130	REP	163	6	78.52.210	AMD	9 E1	828
76.40.135	REP	163	6	78.52.220	AMD	9 E1	829
76.40.140	REP	163	6	78.52.230	AMD	9 E1	830
76.40.145	REP	163	6	78.52.240	AMD	9 E1	831
76.40.900	REP	163	6	78.52.245	AMD	9 E1	832
76.40.910	REP	163	6	78.52.250	AMD	9 E1	833
76.42.020	AMD	163	2	78.52.257	AMD	9 E1	834
76.42.030	AMD	163	3	78.52.260	AMD	9 E1	835
76.48.040	AMD	264	51	78.52.270	AMD	9 E1	836
76.56.020	AMD	282	1	78.52.280	AMD	9 E1	837
76.56.050	AMD	282	2	78.52.290	AMD	9 E1	838
77.04.030	AMD	264	52	78.52.300	AMD	9 E1	839
77.12.020	AMD	264	53	78.52.310	AMD	9 E1	840
77.12.031	AMD	264	54	78.52.320	AMD	9 E1	841
77.12.720	AMD	7 E1	443	78.52.330	AMD	9 E1	842
77.12.900	REP	107	1	78.52.335	AMD	9 E1	843
77.12.901	REP	107	1	78.52.365	AMD	9 E1	844
77.16.290	AMD	7 E1	444	78.52.460	AMD	9 E1	845
77.17.010	AMD	264	55	78.52.463	AMD	9 E1	846
77.17.020	AMD	264	56	78.52.467	AMD	9 E1	847
77.17.030	AMD	264	57	78.52.470	AMD	9 E1	848
77.32	ADD	255	1	78.52.480	AMD	9 E1	849
77.32.101	AMD	255	11	78.52.490	AMD	9 E1	850
77.32.161	AMD	255	10	78.52.530	AMD	9 E1	851
77.32.230	AMD	255	12	78.52.540	AMD	9 E1	852
77.32.256	AMD	255	13	79.01.760	AMD	280	2
78	ADD	232	1-16	79.01.765	AMD	56	1
78.44.087	AMD	232	23	79.01.805	AMD	286	1
78.44.131	AMD	232	24	79.01.810	AMD	286	2
78.44.161	AMD	232	22	79.01.815	AMD	286	3
78.52.010	AMD	9 E1	809	79.01.820	REP	286	4
78.52.020	REP	9 E1	869	79.12	ADD	294	1
78.52.025	AMD	9 E1	810	79.24.580	AMD	219	12
78.52.030	AMD	9 E1	811	79.24.630	REP	219	21
78.52.031	AMD	9 E1	812	79.24.632	REP	219	21
78.52.032	AMD	9 E1	813	79.24.634	REP	219	21
78.52.033	AMD	9 E1	814	79.24.636	REP	219	21
78.52.035	AMD	9 E1	815	79.24.638	REP	219	21
78.52.037	AMD	9 E1	816	79.24.640	REP	219	21
78.52.040	AMD	9 E1	817	79.24.642	REP	219	21
78.52.050	AMD	9 E1	818	79.24.6421	REP	219	21
78.52.070	AMD	9 E1	819	79.24.6422	REP	219	21

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RCW	CH.	SEC.	RCW	CH.	SEC.
79.24.644	REP	219	21	81.56.120	AMD 261 19
79.24.645	REP	219	21	81.70.350	AMD 83 3
79.24.646	REP	219	21	81.80	ADD 168 1
79.24.647	REP	219	21	81.80.321	AMD 83 4
79.66.080	AMD	264	60	81.108.090	AMD 83 5
79.70.030	AMD	264	61	81.112.030	AMD 44 1
79.70.070	AMD	264	62	81.112.040	AMD 109 1
79.70.080	AMD	264	63	82	ADD 5 E1 1,3-9
79.72.020	AMD	264	64	82.02.050	AMD 257 24
79.81.030	AMD	264	65	82.03	ADD 301 17
79.94.390	AMD	264	66	82.03.130	AMD 123 3
79.94.400	AMD	264	67	82.04	ADD 2 E1 1
79.96.030	AMD	264	68	82.04	ADD 5 E1 2
79.96.040	AMD	264	69	82.04	ADD 167 1
79.96.050	AMD	264	70	82.04	ADD 270 2,3
79.96.100	AMD	264	71	82.04.214	AMD 22 1
79.96.110	AMD	264	72	82.04.2201	AMD 10 E1 1
79.96.130	AMD	264	73	82.04.270	AMD 124 2
79.96.906	AMD	264	74	82.04.280	AMD 112 1
79.96.907	DECD	286	5	82.04.300	AMD 7 E1 445
80.08	ADD	251	6	82.04.300	REP 2 E1 4
80.08.040	AMD	251	1	82.04.4282	AMD 124 3
80.08.045	REP	251	7	82.04.440	AMD 124 4
80.08.050	REP	251	7	82.08.026	AMD 124 8
80.08.060	REP	251	7	82.08.0262	AMD 43 1
80.08.100	AMD	251	2	82.08.0291	AMD 85 1
80.08.105	REP	251	7	82.08.150	AMD 7 E1 903
80.08.110	AMD	251	3	82.12	ADD 124 11
80.08.120	AMD	251	4	82.12.010	REMD 93 1
80.08.130	AMD	251	5	82.12.020	AMD 93 2
80.24.010	AMD	83	1	82.12.022	AMD 124 9
80.28	ADD	268	1-4	82.12.023	AMD 124 10
80.28	ADD	292	9	82.14	ADD 241 2
80.50.030	AMD	154	315	82.14	ADD 266 11-13
80.50.030	AMD	264	75	82.14.330	AMD 273 22
81.04.110	AMD	37	2	82.14B.020	AMD 96 2
81.04.385	AMD	37	3	82.14B.030	AMD 96 3
81.04.405	AMD	37	4	82.14B.040	AMD 96 4
81.08	ADD	251	13	82.14B.070	AMD 54 1
81.08.040	AMD	251	8	82.16	ADD 236 1
81.08.050	REP	251	14	82.16	ADD 270 4,5
81.08.060	REP	251	14	82.16.010	AMD 163 4
81.08.100	AMD	251	9	82.16.050	AMD 124 12
81.08.105	REP	251	14	82.24.020	AMD 7 E1 904
81.08.110	AMD	251	10	82.29A.060	AMD 95 1
81.08.120	AMD	251	11	82.29A.120	AMD 95 2
81.08.130	AMD	251	12	82.32.030	AMD 2 E1 2
81.24	ADD	83	2	82.32.030	AMD 7 E1 446
81.48.030	AMD	81	83	82.32.240	AMD 221 69
81.48.040	AMD	81	84	82.36.025	AMD 179 30

## RCW SECTIONS AFFECTED BY 1994 STATUTES

RCW	CH.	SEC.	RCW	CH.	SEC.		
82.36.030	AMD	262	18	84.16.120	AMD	301	30
82.36.060	AMD	262	19	84.16.130	AMD	301	31
82.36.070	AMD	262	20	84.24.010	REP	124	42
82.36.120	AMD	262	21	84.24.020	REP	124	42
82.36.2251	REP	225	1	84.24.030	REP	124	42
82.38.020	AMD	262	22	84.24.040	REP	124	42
82.38.090	AMD	262	23	84.24.050	REP	124	42
82.38.130	AMD	262	24	84.24.060	REP	124	42
82.38.170	AMD	262	25	84.24.070	REP	124	42
82.38.220	AMD	262	26	84.28.005	REP	122	1
82.44	ADD	266	14	84.28.006	REP	122	1
82.44.023	AMD	227	3	84.28.010	REP	122	1
82.44.150	AMD	241	1	84.28.020	REP	122	1
82.45.150	AMD	137	1	84.28.030	REP	122	1
82.46.010	AMD	272	1	84.28.040	REP	122	1
82.60	ADD	1 E1	4,8	84.28.050	REP	122	1
			9	84.28.060	REP	122	1
82.60.020	AMD	1 E1	1	84.28.063	REP	122	1
82.60.020	AMD	7 E1	704	84.28.065	REP	122	1
82.60.030	AMD	1 E1	2	84.28.070	REP	122	1
82.60.040	AMD	1 E1	3	84.28.080	REP	122	1
82.60.050	AMD	1 E1	7	84.28.090	REP	122	1
82.60.065	AMD	1 E1	6	84.28.095	REP	122	1
82.60.070	AMD	1 E1	5	84.28.100	REP	122	1
82.61.010	AMD	125	1	84.28.110	REP	122	1
82.62.010	AMD	7 E1	705	84.28.120	REP	122	1
82.64.010	AMD	7 E1	905	84.28.130	REP	122	1
82.64.020	AMD	7 E1	906	84.28.140	REP	122	1
82.64.030	AMD	7 E1	907	84.28.150	REP	122	1
82.64.040	AMD	7 E1	908	84.28.160	REP	122	1
82.64.060	REP	7 E1	909	84.28.170	REP	122	1
82.64.900	REP	7 E1	909	84.28.200	REP	122	1
83.100.020	AMD	221	70	84.28.205	REP	122	1
83.110.010	AMD	221	71	84.28.210	REP	122	1
84.08.130	AMD	301	18	84.28.215	REP	122	1
84.08.140	AMD	301	19	84.33	ADD	229	1
84.09.030	REMD	292	4	84.33.055	REP	122	1
84.12.200	AMD	124	13	84.33.056	REP	122	1
84.12.270	AMD	301	20	84.33.057	REP	122	1
84.12.310	AMD	301	21	84.33.058	REP	122	1
84.12.330	AMD	301	22	84.33.059	REP	122	1
84.12.340	AMD	124	14	84.33.061	REP	122	1
84.12.350	AMD	301	23	84.33.062	REP	122	1
84.12.360	AMD	301	24	84.33.063	REP	122	1
84.12.370	AMD	301	25	84.33.064	REP	122	1
84.16.040	AMD	301	26	84.33.065	REP	122	1
84.16.050	AMD	301	27	84.33.066	REP	122	1
84.16.090	AMD	301	28	84.33.067	REP	122	1
84.16.100	AMD	124	15	84.33.130	AMD	301	32
84.16.110	AMD	301	29	84.33.160	REP	122	1

"E1" Denotes 1994 1st special sess.

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84.34.055	AMD	264	76	84.56	ADD	301	48
84.34.230	AMD	301	33	84.56.010	AMD	301	50
84.36.020	AMD	124	16	84.56.023	REP	301	57
84.36.264	AMD	124	17	84.56.160	AMD	301	51
84.36.381	AMD	8 E1	1	84.56.170	AMD	301	52
84.36.383	AMD	8 E1	2	84.56.180	REP	301	57
84.36.800	AMD	124	18	84.56.340	AMD	301	53
84.36.810	AMD	124	19	84.60.050	AMD	124	39
84.36.815	AMD	123	1	84.60.050	AMD	301	54
84.36.825	AMD	123	2	84.68.020	AMD	124	40
84.38.040	AMD	301	34	84.68.090	AMD	124	41
84.40.030	AMD	124	20	84.69.020	AMD	301	55
84.40.0301	AMD	301	35	84.70.010	AMD	301	56
84.40.038	AMD	123	4	86.09.286	AMD	154	316
84.40.045	AMD	301	36	86.26.040	AMD	264	77
84.40.080	AMD	124	21	86.26.050	AMD	264	78
84.40.080	AMD	301	37	87.03	ADD	117	2
84.40.085	AMD	124	22	87.03	ADD	292	11
84.40.090	AMD	301	38	87.03.135	AMD	117	1
84.40.170	AMD	124	23	87.06.090	AMD	24	1
84.40.170	AMD	301	39	87.84.061	AMD	264	79
84.40.175	AMD	124	24	88	ADD	51	1-5
84.40.230	AMD	124	25	88.02.125	AMD	262	27
84.41.070	AMD	301	40	88.12	ADD	51	8
84.44.010	AMD	301	41	88.12	ADD	151	2
84.48	ADD	301	47	88.12.055	AMD	264	80
84.48.022	AMD	124	26	88.12.305	AMD	264	81
84.48.026	AMD	124	27	88.12.370	REP	51	7
84.48.028	AMD	124	28	88.12.500	AMD	151	1
84.48.032	AMD	124	29	88.12.510	REP	151	4
84.48.036	AMD	124	30	88.12.520	REP	151	4
84.48.050	AMD	124	31	88.12.530	REP	151	4
84.48.050	AMD	301	42	88.12.540	REP	151	4
84.48.080	AMD	301	43	88.16.190	AMD	52	1
84.48.110	AMD	124	32	88.44	ADD	52	3,4
84.48.110	AMD	301	44	88.44.005	REP	9 E1	870
84.48.120	AMD	124	33	88.44.010	REP	9 E1	870
84.48.120	AMD	301	45	88.44.020	REP	9 E1	870
84.48.130	AMD	124	34	88.44.030	REP	9 E1	870
84.48.140	AMD	124	35	88.44.040	REP	9 E1	870
84.48.150	AMD	301	46	88.44.080	REP	9 E1	870
84.52.010	AMD	124	36	88.44.090	REP	9 E1	870
84.52.018	AMD	124	37	88.44.100	REP	9 E1	870
84.52.020	AMD	81	85	88.44.110	REP	9 E1	870
84.52.030	AMD	124	38	88.44.120	REP	9 E1	870
84.52.053	AMD	116	1	88.44.130	REP	9 E1	870
84.52.0531	AMD	116	2	88.44.140	REP	9 E1	870
84.52.069	AMD	79	2	88.44.150	REP	9 E1	870
84.52.070	AMD	81	86	88.44.160	REP	9 E1	870
84.55.005	AMD	301	49	88.44.170	REP	9 E1	870

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88.44.190	REP	9 E1			870
88.44.200	REP	9 E1			870
88.44.210	REP	9 E1			870
88.44.220	REP	9 E1			870
88.44.900	REP	9 E1			870
88.44.901	REP	9 E1			870
88.46	ADD	9 E1			853
					854
88.46.110	REP	9 E1			871
90.03.247	REMD	264			82
90.03.280	AMD	264			83
90.03.290	AMD	264			84
90.03.350	AMD	232			20
90.03.360	AMD	264			85
90.22.010	AMD	264			86
90.22.020	AMD	264			87
90.24.030	AMD	264			88
90.24.060	AMD	264			89
90.28.010	AMD	81			87
90.28.020	AMD	81			88
90.38.040	AMD	264			90
90.48	ADD	248			3
90.48	ADD	257			19
90.48.090	AMD	232			21
90.48.110	AMD	118			1
90.48.170	AMD	264			91
90.48.366	AMD	9 E1			855
90.48.368	AMD	264			92
90.48.400	AMD	264			93
90.54.190	AMD	9 E1			856
90.56.100	AMD	264			94
90.56.110	AMD	264			95
90.56.510	AMD	6 E1			903
90.58	ADD	253			2
90.58	ADD	257			20
90.58.170	AMD	253			1
90.58.180	AMD	253			3
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90.70.045	AMD	264			97
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286	13	REP	9 E1	863	2	7	AMD	6	1
<u>LAWS 1987</u>			<u>LAWS 1994</u>		2	79	AMD	6	2
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	22	106	AMD	308	1
518	1	AMD	166	7	22	110	AMD	308	2
<u>LAWS 1987 2ND EX.S.</u>			<u>LAWS 1994</u>		22		ADD	308	3,15
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3	1	AMD	124	5					26,28
3	3	AMD	124	6					30-33
<u>LAWS 1988</u>			<u>LAWS 1994</u>						43,55
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>					60,63
174	1	AMD	166	3					68,78
<u>LAWS 1989</u>			<u>LAWS 1994</u>						80
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290	1	AMD	234	2	22	113	AMD	308	4
<u>LAWS 1990</u>			<u>LAWS 1994</u>		22	122	AMD	308	5
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	22	126	AMD	308	6
274	18	AMD	177	10	22	137	AMD	308	7
<u>LAWS 1991</u>			<u>LAWS 1994</u>		22	138	AMD	308	8
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	22	139	AMD	308	9
164	11	AMD	208	3	22	140	AMD	308	10
228	15	AMD	208	4	22	141	AMD	308	11
<u>LAWS 1992</u>			<u>LAWS 1994</u>		22	143	AMD	308	12
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	22	147	AMD	308	13
146	14	AMD	223	93	22	157	AMD	308	14
141	508	AMD	245	11	22	162	AMD	308	16
<u>LAWS 1993</u>			<u>LAWS 1994</u>		22	202	AMD	308	17
<u>Ch.</u>	<u>Sec.</u>	<u>Action</u>	<u>Ch.</u>	<u>Sec.</u>	22	203	AMD	308	18
17	4	REP	42	2	22	210	AMD	308	19
76	1	REP	297	26	22	214	AMD	308	20
239	3	REP	275	42	22	230	AMD	308	21
280	8	AMD	5	1	22	252	AMD	308	24
336	704	AMD	245	3	22	279	AMD	308	25
336	1007	AMD	245	12	22	280	AMD	308	27
406	1	REP	184	12	22	282	AMD	308	29
468	27	REP	33	27	22	285	AMD	308	34
483	22	AMD	199	1	22	286	AMD	308	35
					22	290	AMD	308	36
					22	294	AMD	308	37
					22	299	AMD	308	38
					22	300	AMD	308	39
					22	302	AMD	308	40
					22	303	AMD	308	41
					22	306	AMD	308	42
					22	401	AMD	308	44
					22	403	AMD	308	45
					22	406	AMD	308	46
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22	430	AMD	308	51	23	25	AMD	303	27
22	431	AMD	308	52	23	26	AMD	303	28
22	432	AMD	308	53	23	27	AMD	303	29
22	460	AMD	308	54	23	28	AMD	303	30
22	459	AMD	308	56	23	29	AMD	303	31
22	462	AMD	308	57	23	31	AMD	303	32
22	463	AMD	308	58	23	32	AMD	303	33
22	466	AMD	308	59	23	35	AMD	303	35
22	468	AMD	308	61	23	36	AMD	303	36
22	469	AMD	308	62	23	37	AMD	303	37
22	474	AMD	308	64	23	41	REP	303	38
22	475	AMD	308	65	23	39	AMD	303	39
22	476	AMD	308	66	23	47	AMD	303	42
22	477	AMD	308	67	24	101	AMD	6 E1	101
22	507	AMD	308	69	24	102	AMD	6 E1	102
22	518	AMD	308	70	24		ADD	6 E1	103
22	519	AMD	308	71					209
22	603	AMD	308	72					210
22	515	AMD	308	73					514
22	708	AMD	308	74					516
22	731	AMD	308	75					517
22	733	AMD	308	76					702
22	745	AMD	308	77					703
22	757	AMD	308	79					708
22	791	AMD	308	81					709
22	808	AMD	308	82	24	103	AMD	6 E1	104
22	813	AMD	308	83	24	104	AMD	6 E1	105
22	1002	AMD	308	90	24	106	AMD	6 E1	106
22	1011	AMD	308	91	24	107	AMD	6 E1	107
22	101	REP	308	92	24	109	AMD	6 E1	108
23	1	AMD	303	1	24	111	AMD	6 E1	109
23	2	AMD	303	2	24	112	AMD	6 E1	110
23	4	AMD	303	3	24	113	AMD	6 E1	111
23	5	AMD	303	4	24	114	AMD	6 E1	112
23	6	AMD	303	5	24	117	AMD	6 E1	113
23	7	AMD	303	6	24	118	AMD	6 E1	114
23	8	AMD	303	7	24	119	AMD	6 E1	115
23	9	AMD	303	8	24	120	AMD	6 E1	116
23	10	AMD	303	9	24	116	AMD	6 E1	117
23	11	AMD	303	10	24	121	AMD	6 E1	118
23	12	AMD	303	11	24	123	AMD	6 E1	119
23		ADD	303	12	24	124	AMD	6 E1	120
				19-24	24	125	AMD	6 E1	121
				26,40	24	217	AMD	6 E1	122
				41,43	24	127	AMD	6 E1	124
				44	24	613	REP	6 E1	125
23	13	AMD	303	13	24	128	AMD	6 E1	126
23	16	AMD	303	14	24	129	AMD	6 E1	127
23	21	AMD	303	15	24	131	AMD	6 E1	128
23	40	REP	303	16	24	132	AMD	6 E1	129
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24	135	AMD	6 E1 132	24	311	AMD	6 E1 310
24	138	AMD	6 E1 133	24	312	AMD	6 E1 311
24	139	AMD	6 E1 134	24	313	AMD	6 E1 312
24	140	AMD	6 E1 135	24	314	AMD	6 E1 313
24	141	AMD	6 E1 136	24	315	AMD	6 E1 314
24	142	AMD	6 E1 137	24	317	AMD	6 E1 315
24	143	AMD	6 E1 138	24	401	AMD	6 E1 401
24	145	AMD	6 E1 139	24	402	AMD	6 E1 402
24	146	AMD	6 E1 140	24	501	AMD	6 E1 501
24	147	AMD	6 E1 141	24	502	AMD	6 E1 502
24	149	AMD	6 E1 142	24	504	AMD	6 E1 503
24	150	AMD	6 E1 143	24	505	AMD	6 E1 504
24	152	AMD	6 E1 144	24	507	AMD	6 E1 505
24	308	AMD	6 E1 145	24	509	AMD	6 E1 506
24	151	AMD	6 E1 146	24	512	AMD	6 E1 507
24	318	AMD	6 E1 147	24	513	AMD	6 E1 508
24	316	AMD	6 E1 148	24	515	AMD	6 E1 509
24	202	AMD	6 E1 201	24	516	AMD	6 E1 510
24	203	AMD	6 E1 202	24	517	AMD	6 E1 511
24	204	AMD	6 E1 203	24	518	AMD	6 E1 512
24	205	AMD	6 E1 204	24	521	AMD	6 E1 515
24	206	AMD	6 E1 205	24	601	AMD	6 E1 601
24	207	AMD	6 E1 206	24	602	AMD	6 E1 602
24	208	AMD	6 E1 207	24	603	AMD	6 E1 603
24	209	AMD	6 E1 208	24	604	AMD	6 E1 604
24	210	AMD	6 E1 211	24	605	AMD	6 E1 605
24	211	AMD	6 E1 212	24	606	AMD	6 E1 606
24	212	AMD	6 E1 213	24	607	AMD	6 E1 607
24	213	AMD	6 E1 214	24	608	AMD	6 E1 608
24	214	AMD	6 E1 215	24	609	AMD	6 E1 609
24	215	AMD	6 E1 216	24	610	AMD	6 E1 610
24	216	AMD	6 E1 217	24	611	AMD	6 E1 611
24	219	AMD	6 E1 218	24	612	AMD	6 E1 612
24	220	AMD	6 E1 219	24	614	AMD	6 E1 613
24	221	AMD	6 E1 220	24	615	AMD	6 E1 614
24	222	AMD	6 E1 221	24	616	AMD	6 E1 615
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24	224	AMD	6 E1 223	24	618	AMD	6 E1 617
24	225	AMD	6 E1 224	24	619	AMD	6 E1 618
24	226	AMD	6 E1 225	24	710	AMD	6 E1 701
24	227	AMD	6 E1 226	24	701	AMD	6 E1 704
24	228	AMD	6 E1 227	24	703	AMD	6 E1 705
24	229	AMD	6 E1 228	24	705	AMD	6 E1 706
24	301	AMD	6 E1 301	24	706	AMD	6 E1 707
24	302	AMD	6 E1 302	24	716	AMD	6 E1 710
24	303	AMD	6 E1 303	24	721	AMD	6 E1 711
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24	306	AMD	6 E1 306	24	803	AMD	6 E1 803
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**INITIATIVES TO THE LEGISLATURE  
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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.

**HISTORY OF CONSTITUTIONAL AMENDMENTS  
ADOPTED SINCE STATEHOOD  
(SUPPLEMENTING 1993 LAWS, PAGE 3312)**

- 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.